

“A Means to Every End”  
Ideas of Union in Upper Canada, 1822 – 1842

by

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## **Abstract**

This thesis explores debates over inter-colonial union in the Upper Canadian public sphere from 1822 to 1842. In doing so, it examines the emergence of a distinct settler society through its political culture and constitutional development. It argues that these debates, which remained generally consistent over time, reveal the intellectual framework of settler debate bound by emerging and contested understandings of Britishness. Using the concept of settler nationalism to combine two rich intellectual traditions in Canadian historiography – the study of British imperialism and studies of loyalism and liberalism – this thesis emphasizes the similarities between opponents and proponents of union. It investigates the development of Upper Canadian identity and political culture, exploring the emerging dual identity as British subject and Canadian settler. The evidence demonstrates that the political and intellectual foundations of Confederation are far deeper than the scholarly literature has suggested.

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## **Chapter One: Introduction**

Canada is experiencing a year-long celebration of the 150<sup>th</sup> anniversary of Confederation, a historical event that has often been falsely conflated in public and political memory with the obtaining of independence and the creation of a Canadian nation. This thesis challenges national mythology by tracing the development of a national identity and political culture by exploring ideas of inter-colonial union in the public sphere of Upper Canada between 1822 and 1842. It explores how union was discussed and the different ends its proponents sought to achieve, both of which reveal a great deal about Upper Canada's political culture. Different imaginings of union drew on radically divergent identities and ideas of loyalty, liberalism, and purpose of government. Emerging citizens of British North America imagined their identities relationally, demonstrated through the framing of union in terms of their relationships with the imperial state, other British North American colonies, or with the United States. This thesis examines the political debates on union in newspapers, legislative proceedings, pamphlets and in letters from colonial and imperial officials. It investigates how these debates changed over time and explores the expression of identities and settler nationalism in the imagining of a broader British North American polity in Upper Canada from 1822-1842.

This thesis uses settler nationalism to describe an intellectual framework within which participants simultaneously advanced a vision of colonial exceptionalism while promoting continued attachment to and affection for the imperial state, institutions, and

identity.<sup>1</sup> Canadian settler nationalism was premised on participation in the British imperial project in British North America, was exclusionary, patriarchal, and built on the idea of consolidation and territorial expansion. This was based on ideas of Anglo-Saxon superiority and nineteenth-century British understandings of “race,” that drew racial divides between what we might now call ethnic groups, such as Irish or French, combined with the doctrine of *terra nullius* that encouraged the continuous immigration of British settlers to facilitate schemes of westward expansion. Using this terminology serves three purposes in this thesis. Firstly, to provide a means to unite two intellectual traditions in Upper Canadian historiography; the study of imperialism and British history with explorations of liberalism and loyalism as foundational components of Upper Canadian political culture. This thesis argues liberty and loyalty were mutually constituting, and reciprocal conditions. Secondly, it accounts for settlers’ identity as British and of a distinct Upper Canadian settler society, which like liberty and loyalty were complementary of each other rather than mutually exclusive. Thirdly, it emphasizes the similarities between different factions involved in Upper Canadian politics. Even as they framed their arguments in opposition to each other, they drew on the same language of Britishness and the British constitution.

Examining the ongoing construction of a settler society, unique settler institutions, and political culture will add a new dimension to the study of what would become Confederation. Taking a longer view of union and pursuing themes of consolidation and expansion as the manifestation of a national identity and community premised on settler

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<sup>1</sup> Lorenzo Veracini, *Settler Colonialism: A Theoretical Overview* (London: Palgrave Macmillan, 2010), 53-74. This definition of settler nationalism draws on Veracini’s discussion of settler sovereignty – and the ideas of autonomy and isopolity that allowed for a pluralistic understanding of sovereignty and identity.

colonialism, this thesis addresses an often stated but thinly explored connection between early conceptualizations of union and its eventual achievement in the form of Confederation in 1867.<sup>2</sup> Upper Canadian historiography holds a rich discussion of political culture, identity, and state formation, to which this thesis contributes. Drawing on the methodologies and theoretical frameworks pioneered by intellectual and political historians of British North America such as Jeffrey McNairn, Jane Errington, Michael Eamon, and Nancy Christie, this project explores ideas of settler nationalism and nation-building by tracing ideas of colonial union. Additionally, it draws on Cecilia Morgan's *Building Better Britains*, investigating the significance of Britishness in the construction of a settler polity in British North America.<sup>3</sup> How settlers understood their place as British often factored into their understanding of society and government, and influenced how institutions took shape in the colonies. Many of these institutions and norms remain in place, and understanding the development of ideas through the rhetoric of colonial politicians sheds light on the construction of those institutions.

Despite the attention paid to the 1840 *Act of Union* and Confederation, key questions remain unanswered. Ideas of settler nationalism, liberty, and loyalty featured prominently in union debates and were central to the development of Canada's political culture, institutions, and settler identity. Notably absent from analyses of Confederation is the space Indigenous people occupied in conceptualizations of union. How newspapers and pamphlets discussed, or did not discuss, Indigenous peoples and issues in the imagining of future political structures is crucial to understanding Canadian state

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<sup>2</sup> J.M. Bumstead, "'Things in the Womb of Time': Ideas of American Independence, 1633-1783," *William and Mary Quarterly*, 31, no. 4 (1974).

<sup>3</sup> Cecilia Morgan, *Building Better Britains? Settler Societies Within the British Empire, 1783-1920*, (Toronto: University of Toronto Press, 2016), 82.

development. Recent scholarship in American constitutional history has highlighted the contextual impact of Indigenous people on the so-called revolutionaries' political thought, demonstrating the need to look beyond constitutional documents.<sup>4</sup> John Ralston Saul claimed that Canada is a Métis construction referring to a mixing of Indigenous and European political systems.<sup>5</sup> In addition to problematically misusing Métis, this approach undermines the imposition of European and settler structures that sought to marginalize, assimilate or exterminate Indigenous peoples. It is important to note the diversity of Indigenous nations in what was constituted by settlers as Upper Canada. While the presence of many nations, each with their own experiences with European settlers, histories of resistance, and negotiations of identity is important to recognize and consider, this thesis focuses on settler attitudes through the public sphere.

The first Governor General of the Dominion of Canada, Viscount Monck, in the inaugural throne speech offered his congratulations to the emerging settler nation, and presented a vision of Confederation as having “laid the foundation for a new nationality that I trust and believe will, ere long, extend its bounds from the Atlantic to the Pacific Ocean.”<sup>6</sup> However, the idea of building a new nation in northern North America was not new in the 1860s. Rather, this idea of a new nation being formed featured prominently in debates in the public sphere and drove political and economic development in Upper Canada and the other British North American colonies. How settlers drew on ideas of nation-building in debates regarding union over the course of the nineteenth century

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<sup>4</sup> Gregory Ablavsky, “The Savage Constitution” in *Duke Law Review Journal*, (Feb. 2014), 1051.

<sup>5</sup> John Ralston Saul, *A Fair Country: Telling Truths about Canada*, (Toronto: Penguin Canada, 2009).

<sup>6</sup> Viscount Monck, Speech from the Throne. 1<sup>st</sup> Session of the 1<sup>st</sup> Parliament of Canada.



reveal how they envisioned their political and constitutional future within the British empire.

Confederation has received extensive attention from historians and political scientists, yet relatively little has been produced on the subject since a consensus emerged in the 1960s. The works of Donald Creighton, P.B Waite, and W.L. Morton have influenced understanding and scholarship of the events surrounding the union of the British North American colonies. At the time of the Charlottetown Conference in 1864, the exact form of the Union was undecided and according to Creighton the next three years spent debating it was “the most vital episode in the intellectual history of British North America.”<sup>7</sup> This claim seems to be an overstatement that needs revisiting by examining union as a longer discussion with broad implications for Canadian identity formation. Additionally, Creighton argues that participants in the agreement were pragmatists who rejected dogmas of the Enlightenment and had no intention of changing their political system.<sup>8</sup> This position is representative of the historiography of the 1960s, which tended to view nineteenth century Canadian politicians as fundamentally self-interested actors, who would compromise and employ the most convenient arguments available.

This consensus was briefly challenged in the 1990s, first by Ged Martin and later by Christopher Moore. Martin argues that “between 1837 and 1867 Britain came to favour the eventual union of British North America,” and the literature has tended to exaggerate the short-term pressure exerted by the British, while simultaneously down-

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<sup>7</sup> Creighton, *The Road to Confederation*, 70.

<sup>8</sup> Creighton, *The Road to Confederation*, 142.

playing long term involvement in schemes for a British North American Union.<sup>9</sup> Pre-existing British support for a union of British North American union becomes a necessary condition for what Martin describes as an ambitious Upper Canadian scheme.<sup>10</sup> Martin proposes shifting the focus from abstract merits of Confederation, which in their view had been widely exaggerated, to the necessary condition of pre-existing British support.<sup>11</sup> Christopher Moore's narrative is rooted in the colonies of British North America, focusing on the personalities of the "Fathers of Confederation," and principles of parliamentary democracy in 1860s Canada. Moore argues this was the first constitution not imposed on British North America by London to serve imperial interests and suggests the idea of a new nationality emerged only in the late 1850s.<sup>12</sup> Moore stresses a federal union as the only option available, downplaying the strength of other potential desired outcomes.<sup>13</sup> An important theme throughout Moore's book is colonial politicians' commitment to British constitutionalism even as they sought increased political independence and spoke of a new nationality.<sup>14</sup> These themes were present in the Canadas in the 1820s and 1830s, and this thesis explores the different schemes of union that were considered and debated in the settler colony of Upper Canada with reference to a distinct nationality.

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<sup>9</sup> Martin, *Britain and the Origins of Confederation*, 1, 25. Martin emphasizes the importance of British support for colonial union, and suggests that it was necessary for the debate to develop in the colonies. Andrew Smith, *British Businessmen and Confederation: Constitution-Making in an era of Anglo-Globalization* (Montreal: McGill-Queen's University Press, 2008) builds on Martin's interpretation by examining the role of London investors and business interests in imperial governance in Canada.

<sup>10</sup> Martin, *Britain and the Origins of Confederation*, 294.

<sup>11</sup> Martin, *Britain and the Origins of Confederation*, 79.

<sup>12</sup> Christopher Moore, *1867: How the Fathers Made a Deal* (Toronto: McClelland and Stewart, 1997), 231.

<sup>13</sup> Moore, *1867: How the Fathers Made a Deal*, 102. He also suggests that federalism is what required a written constitution for Canada, which undermines other factors that influenced the spread of written constitutions throughout the Atlantic World in the nineteenth century.

<sup>14</sup> Moore, *1867*, 237.

Janet Ajzenstat also frames their argument in opposition to the 1960s consensus, suggesting that the founding of Canada was based on Lockean ideas; and secondly, that the idea of parliamentary government lies at the heart of Confederation and Canadian political identity.<sup>15</sup> This also conflicts with interpretations that understand settler politics as removed from the Enlightenment, or rooted primarily in Burkean political thought, as suggested by Moore.<sup>16</sup> Additionally, Ajzenstat argues that Confederation was an excellent example of an Enlightenment constitution. With the exception of Ged Martin, the conventional wisdom of the Confederation literature is that ideas of a British North American union and nationhood originated in the 1860s. This thesis, with its longer look at ideas of union in one of the colonies of British North America, will challenge this assumption, exploring what may be described as remote foundations of Confederation.

A recent trend in Canadian historiography has promoted a focus on the colonial public sphere in an attempt to broaden and deepen understandings of its political history. Michael Eamon's examination of the public sphere focuses on Halifax and Quebec City and is rooted in the theories of Jürgen Habermas and Benedict Anderson.<sup>17</sup> Eamon notes that Britishness in the eighteenth century was paradoxical and fluid and the British North American press imprinted an idealized sense of Britain on the colonies.<sup>18</sup> Settlers' negotiation and defining of their identities continued into the nineteenth century, as did

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<sup>15</sup> Ajzenstat, *The Canadian Founding: John Locke and Parliament*, (Montreal: McGill-Queen's University Press, 2007) 3, 7.

<sup>16</sup> Moore argues that participants in the confederation debates were disciples of Burkean views of parliamentarianism, but would have opposed his ideas of the role of the state in society. Fundamental to Ajzenstat's interpretation is Lockean political thought, which has its own limitations.

<sup>17</sup> Michael Eamon, *Imprinting Britain: Newspapers, Sociability and the Shaping of British North America* (Montreal Kingston: McGill-Queen's University Press, 2015) 11, 15. Eamon draws on Jürgen Habermas for the structural transformation of the bourgeois public sphere, and Benedict Anderson for the importance of print in the creation of national communities.

<sup>18</sup> Eamon, *Imprinting Britain*, 16.

the idealization of British citizens and institutions. As Eamon points out, loyalism was a present and an important force in the eighteenth-century British Atlantic that “drew on principles deeply embedded in English politics, philosophy, and literature,” which colonial printers sought to transmit to Quebec and Halifax.<sup>19</sup> They also examine the place of the colonial press in imagining the colonies’ participation in and experience of the Enlightenment, focusing on more democratized definitions of the period. This challenges long-standing historiographic trends that viewed the British North American colonies as being removed from this political experience. Though Anderson’s analysis is spatially removed from the geographic focus of this thesis, their examination of the construction of imagined communities in other British North American colonies provide important background for the study of ideas in the public sphere.

Jeffrey McNairn examines the relationship between the public sphere and the growth of deliberative democracy in nineteenth century Upper Canada. Also rooted in the work of Jürgen Habermas, McNairn examines the creation and growth of the public sphere, drawing from the almost seventy newspapers present in Upper Canada between 1791 and 1854. Transcending traditional periodization of Upper Canadian historiography, McNairn focuses on the changing principles on which government was based and demonstrates that Upper Canada experienced and participated in the Enlightenment through the shifting principles of colonial governance.<sup>20</sup> McNairn argues that Upper Canada was more than a “somnolent backwater of conservatism,” demonstrating the intellectual diversity of the colony while acknowledging the limits of

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<sup>19</sup> Eamon, *Imprinting Britain*, 18-22.

<sup>20</sup> Jeffrey L. McNairn, *The Capacity to Judge Public Opinion and Deliberative Democracy in Upper Canada, 1791-1854* (Toronto: University of Toronto Press, 2000), 18.

the public sphere.<sup>21</sup> In justifying the shifting constitutional principles, colonial politicians frequently alluded to ideals of Britishness and British constitutionalism. Politicians from all sides of the debate drew from the same British institutions, and framed their arguments as a commitment to idealized notions of Britishness and loyalty to Britain itself.

Ideas of loyalism and liberalism have been a major focus of recent debate among political and intellectual historians. Ian Mackay, in an influential article “Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History”, proposed a new approach and interpretive framework for Canadian historians.<sup>22</sup> McKay’s central argument is that Canada should be viewed as a historically specific project of liberal rule, and suggests seven arresting moments, two of which are relevant to this thesis.<sup>23</sup> Firstly, the 1837 Rebellions, *Durham Report*, and *Act of Union*, as liberalism’s triumph over civic humanism, and secondly, Confederation “interpreted more broadly and comprehensively than the political reorganization of 1864-7” to include the consolidation of a federal system and its institutions.<sup>24</sup> These two moments were substantial in the development of the Canadian state, and investigating their connections through debates of union will explore the broader project of settler governance in British North America.

Jerry Bannister and Elsbeth Heaman offer critiques of this framework that are important to account for in intellectual histories of British North America. Bannister argues that though liberalism explains much about Canadian political culture, historians

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<sup>21</sup> McNairn, *The Capacity to Judge*, 19.

<sup>22</sup> Michel Ducharme, and Jean-François Constant. *Liberalism and Hegemony: Debating the Canadian Liberal Revolution* (Toronto.: University of Toronto Press, 2009), 4. McKay proposed this framework drawing on a “new political thought,” state formation, and new legal history as a way out of what he called the “thinly Canadianized history wars north.”

<sup>23</sup> McKay “The Liberal Order Framework,” 620.

<sup>24</sup> McKay, 632-633.

must account for Canada's "inherited legacy of counter-revolution."<sup>25</sup> Loyalism, in Bannister's framework, is antithetical not to liberalism, but to republicanism. This idea of loyalty was crucial in discussions about reorganizing the settler societies in British North America. Heaman argues that conservatism also has to be accounted for and that its addition to the liberal order framework would strengthen the understanding of Canadian political culture.<sup>26</sup> Their discussions of liberties and rights in relation to the liberal order framework adds an important dimension, and provides a way to unite ideas of loyalty and liberty.<sup>27</sup> Bannister's and Heaman's critiques will inform this analysis of union debates in Upper Canada and help to understand how loyalism and liberalism interacted in settler identities. Though there are limitations to McKay's liberal order framework, it provides a useful starting point for conceptualizing Confederation as a broader process.<sup>28</sup> In their rejoinder to *Liberalism and Hegemony*, McKay states that Sydenham and Durham are unheralded Fathers of Confederation.<sup>29</sup> This contradicts much of the existing historiography of Confederation, as well as the approaches taken by political scientists, both of which have tended to prioritize the proximate political developments. Exactly how these, and other colonial political figures shaped the Confederation process requires further research and is a question this thesis explores.

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<sup>25</sup> Jerry Bannister, "The Loyalist Order Framework" in *Liberalism and Hegemony*, 129. See also: Jerry Bannister and Liam Riordan, *The Loyal Atlantic* (Toronto: University of Toronto Press, 2011).

<sup>26</sup> EA Heaman, "Rights Talk and the Liberal Order Framework" in *Liberalism and Hegemony*, 159

<sup>27</sup> Heaman, 161.

<sup>28</sup> McNairn's critiques in "Hope and Fear: Intellectual History, Liberalism, and the Liberal Order Framework" in *Liberalism and Hegemony* are particularly relevant for intellectual and political histories.

<sup>29</sup> McKay "Canada as a Long Liberal Revolution: On Writing the History of Actually Existing Canadian Liberalisms, 1840-1940 in *Liberalism and Hegemony*, 358. McKay argues that in the aftermath of the Union of the Canadas, a revolution from above restored power of the executive, and undermined democratic movements.

There is a growing historiography of the “new Imperial history” that seeks to better understand the transatlantic exchange of ideas and social forms, a perspective which, according to Nancy Christie, has “been largely eviscerated by the continued dominance of nationalist narratives of the Canadian polity.”<sup>30</sup> Framed in the broader literature on the Atlantic World, Christie argues there is a need to reconsider how British identities were redefined after the loss of the American colonies.<sup>31</sup> Ideologies, practices, and identities were more sharply edged in the colonial setting as settlers romanticized notions of Britishness.<sup>32</sup> *Transatlantic Subjects* challenges dominant Canadian historiography of W.L. Morton, Donald Creighton, and Arthur Lower, who viewed Canada’s development as a linear and gradual development towards Confederation and liberal democracy. The transference of class and gendered identities across the Atlantic is explored in Christie’s essay in this collection, and questions of masculinity, the frontier “myth of social equality,” and the rights of Britons were important to the development of Upper Canadian political culture.<sup>33</sup> Michael Eamon argues for revisiting nineteenth century British North American colonies using methods that placed the United States within the tradition of the Scottish Enlightenment.<sup>34</sup>

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<sup>30</sup> Nancy Christie, “Introduction” in *Transatlantic Subjects: Ideas, Institutions, and Social Experience in Post-Revolutionary British North America* (Montreal and Kingston: McGill Queen’s University Press, 2008), 16.

<sup>31</sup> Christie, *Transatlantic Subjects*, 3, 6. Christie is responding to JGA Pocock’s call to expand the study of British history to include its colonies within the same historical framework.

<sup>32</sup> Christie, *Transatlantic Subjects*, 16.

<sup>33</sup> Christie, “The Plague and Servants” in *Transatlantic Subjects*, 105, 112. See also Cecilia Morgan’s *Public Men and Virtuous Women* for a discussion of gendered language in Upper Canadian politics. Ideas of “manly independence” and a “frontier spirit” were an important part of political culture, and how these ideas are employed in arguments about Union is an important element to consider. These ideas are also explored by Morgan in *Building Better Britains?* as an important parts of settler economics and identity.

<sup>34</sup> Eamon “Scottish Trained Medical Practitioners in British North America and Participation in a Transatlantic Culture of Enlightenment” in *Transatlantic Subjects*, 285. Eamon also argues that previous exclusion of British North American colonies was based on lacking a revolutionary ideology, ignoring diversity of American opinion.

*Colonial Leviathan*, a collection edited by Allan Greer and Ian Radforth examined processes of Canadian state formation. Published in the 1990s, this collection was an attempt to consolidate approaches of social and political historians into a broader understanding of power. Radforth and Greer use state formation to mean not simply government or its institutions, but rather a “broader conceptualization of political power” including the colonial executive, the legislative assembly and all officers and agencies that shared in sovereign authority.<sup>35</sup> Their intervention is framed partly in opposition to a generation of historians that viewed developments as incremental and positive, and whose focus on politics obscured the growth of the state.<sup>36</sup> Greer and Radforth’s criticisms of “whiggish” historiography and ongoing reassessments of the Rebellion and implementation of responsible government provide a starting point for a longer look at ideas of union.

Jane Errington investigates the development of colonial ideology in Upper Canada as the product of being a colony of both Great Britain and the United States between 1784 and 1828.<sup>37</sup> This connection to the United States and Great Britain continues throughout the nineteenth century, and though Errington’s study ends in 1828 it has important implications for the study of ideology and identity throughout the nineteenth century. Proposals for union often drew on a combination of British and American institutions and politicians tended to borrow arguments from either or both imperial powers. Despite this dual influence, ideas of Britishness and of constructing a

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<sup>35</sup> Allan Greer and Ian Radforth, “Introduction” in *Colonial Leviathan* eds. Allan Greer and Ian Radforth (Toronto: Toronto University Press, 1992), 10.

<sup>36</sup> Greer and Radforth, *Colonial Leviathan*, 4. Creighton and Morton are the main historians identified by Greer and Radforth as promoting this type of history. As with Christie, Ajzenstat, Moore and Martin, the analysis is framed as an argument against older political approaches in substance and approach.

<sup>37</sup> Jane Errington, *The Lion, The Eagle, and Upper Canada: A Developing Colonial Ideology* (Montreal: McGill-Queen’s University Press), 5.



“Better Britain” were important driving forces in the construction of the Upper Canadian political system. Cecilia Morgan argues that the creation of identities was not a neutral process, but rather, was strongly influenced by relationships of power, and British identities were profoundly gendered, and typically excluded Indigenous and racialized people.<sup>38</sup>

The Rebellion of 1837/8 in Upper and Lower Canada and the changes in governance it provoked have attracted a great deal of scholarly attention. Michel Ducharme examines two competing ideas of liberty in the Canadas, civic republicanism and Lockean liberalism in Canada from 1776 – 1838.<sup>39</sup> Ducharme’s book examines the rebellions within the context of the Atlantic World, and views the rebellions within a single analytical framework. The response to the 1837/8 Rebellion included the *Durham Report*, which offered an interpretation of the affairs of British North America. Janet Ajzenstat offers an important revisionist overview of Lord Durham’s political thought that examines the issues tackled by Durham in his report. The Durham meetings, large public events that occurred after the *Durham Report* was published are examined by Carol Wilton, who demonstrates the contentious nature of the proposed reforms, and the impact of the report as an ongoing event.<sup>40</sup>

This thesis addresses questions of Upper Canadian identity and political culture through discussions of union in the public sphere. As McNairn demonstrated in the *Capacity to Judge*, Upper Canadians engaged with questions of good governance and

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<sup>38</sup> Cecilia Morgan, *Building Better Britains*, xvii. Morgan places Upper Canada (and Canada) in the same interpretative frame as other settler colonies, and examines similarities in discussions of citizenship and identity throughout them.

<sup>39</sup> Michel Ducharme, *Ideas of Liberty in the Age of Atlantic Revolutions* (Montreal and Kingston: McGill-Queen’s University Press, 2014).

<sup>40</sup> Carol Wilton, “A firebrand amongst the people’: The Durham meetings and popular politics in Upper Canada,” *Canadian Historical Review* 75, no. 9, (1994): 346-375.

colonial politicians appealed to public opinion as a source of authority.<sup>41</sup> It explores the ways in which Upper Canadians discussed inter-colonial union in the nineteenth century, and argues that they largely represent continuity. By considering the alternate structures imagined by colonial politicians, it investigates Upper Canada's political culture and the creation of an imagined community. The language and arguments employed by settlers in support of their preferred constitutional arrangements reveal the colony's political culture, and demonstrate the development of a distinct settler society. Through the union debates in Upper Canada, this thesis explores a sense of settler nationalism and addresses broader historical debates about how ideas of loyalty and liberty animated settler political debate. Different types of unions were considered, but the justifications for each were framed using the British constitution. The development of a federal system in British North America would not have been predictable given that the state they sought to emulate was constructed as a unitary one, built through a series of legislative unions. However, the idea of distinct settler societies in British North America and a desire among settlers to preserve their distinctiveness from each other while remaining a part of the British Empire offers a potential explanation for the construction of a federal state. This thesis explores the early foundations of British North American 'national' aspirations by looking beyond the immediate imaginings of union.

English-speaking settlers harboured ambitions of a united British North America since at least the arrival of Loyalists from the United States in 1783. With the influx of settlers in northern North America, imperial officials engaged in the reorganization of the British North American colonies, beginning with the *Constitutional Act, 1791*, dividing

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<sup>41</sup> McNairn, *Capacity to Judge*, 154.

the colony of Quebec into Upper and Lower Canada. The first Lieutenant Governor of Upper Canada, John Graves Simcoe declared this act bestowed on Upper Canada “the very image and transcript of the British constitution.”<sup>42</sup> This claim would be restated repeatedly in Upper Canadian political debates in the early nineteenth century, but was often co-opted by opposition politicians to justify their visions of reform. It was the perceived deficiencies in the *Constitutional Act, 1791* that prompted the first attempt to construct a legislative union of the Canadas in 1822. This bill was designed and drafted in the British Parliament without consultation with settlers. The absence of any form of consultation was a major reason for its initial delay in the Commons as British politicians responded to the lessons of the American Revolution. Debate moved across the Atlantic as British parliamentarians sought an understanding of Upper Canadian public opinion. The 1840 *Act of Union* also originated in the British Parliament as a response to the Rebellion in the Canadas and was originally based on many of the recommendations of Lord Durham. When Sydenham arrived as Governor General, he needed only to secure the approval of the Upper Canadian legislature, as Lower Canada’s legislature was suspended as a result of the Rebellion.

This thesis offers an alternative to the colony-to-nation narrative that once dominated Canadian historiography. It is not an investigation of how Confederation took place in 1867, or the gradual, benevolent, and inevitable implementation of liberal democracy, but rather an exploration of Upper Canadian political thought, ideology, and identity. As Cecilia Morgan points out “responsible government may have ‘set the stage’ for the creation of settler dominions, but the process was not inevitable or assured.”<sup>43</sup>

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<sup>42</sup>Quoted in McNairn, *The Capacity to Judge*.

<sup>43</sup> Morgan, *Building Better Britains*, 66.

Capturing the uncertainty and doubt surrounding debates of union is important to understanding Upper Canadian intellectual and political history.

This analysis of union draws on a combination of pamphlets, newspapers, parliamentary debates, acts of Parliament, and correspondence between imperial officials and the Colonial Secretaries. Examined together, these sources allow for an exploration of the union debates, revealing the intellectual framework within which settlers operated, and the ongoing development of settler identity in Upper Canada.

Pamphlets were an important part of the print culture of the English Atlantic, and contributed to understandings of political culture and identity. They provide important insights into the public sphere and tend to provide more detailed schemes and justifications for union. Several colonial politicians offered criticisms or suggested alternative arrangements for British North American union through this medium. The arguments made by pamphleteers supplements the debates found in the colonial newspapers because they were able to offer longer explanations and more details than could fit in newspapers. Their explicit purpose was to convince, and though newspapers often performed a similar function, many printers believed in a responsibility to publish even those perspectives they may not agree with, though the political position of the editor/owner was usually perceptible. Members of the colonial elite published lengthy responses to ongoing political crises and these documents allow insights into developing ideas of union. While newspapers provide insights into settler opinions on schemes of union, as well as limited alternative suggestions, pamphlets provide detailed alternatives and reveal the intellectual basis for schemes of union. Pamphlets form a central part of this analysis of union.

Newspapers were increasing in number and importance in Upper Canada, becoming legitimate vehicles for the expression of settler opinions on constitutional issues. They provide insights into public opinion in the colonies, as well as how colonial elites sought to shape and direct this opinion. The positions adopted by editors were influenced by their location within the colony, as well as their support for or opposition to the colonial administration. In addition to the editorials, newspapers contained reports of public meetings and petitions, crucial components of the settler public sphere. Editors emphasized their intellectual and political independence, and accordingly they often printed arguments they disagreed with, if only to refute them. Contributors often participated under pseudonyms that reflected the arguments they made, and promoted the consideration of arguments on their merit rather than on who was making the argument. By the debates of the late 1830s, newspapers were reporting on the debates in the legislature, and printed copies of the *Bills* that settlers were asked to debate. These newspapers allow for a consideration of both popular and high politics, because though they were edited by colonial elites, they carried news of public gatherings and the resolutions passed at those meetings that allowed for participation of Upper Canadians beyond the traditional franchise. Additionally, newspapers provided an avenue for at least some settlers to directly participate in public debate, in spite of the significant barriers to participating in newspapers including literacy, and ability to purchase a newspaper.

Debates in the colonial legislature were increasingly publicized during the 1820s and 1830s, and demonstrate how, even as arguments remained consistent, the constitutional principles continued to shift. In the debate surrounding the 1822 *Bill of*

*Union*, neither house of the colonial legislature was willing to offer an official opinion on the measure by voting on it. However, by the time the *Durham Report* was published, these legislative bodies were ready and willing to intervene and express their views. British Parliament required approval of the Upper Canadian legislature before moving forward with the *Act of Union*. Debates within the legislature provide important insights into Upper Canadian political culture, and it was a major political battleground. Elections were an extension of this space, and members of the House of Assembly were particularly aware of their dependence on elections.

Parliamentary documents, including the bills under consideration, and official reports are important sources for this thesis, as they were sources around which settler debate revolved. This thesis examines the 1822 *Bill of Union*, the 1839 *Bill of Union*, and the 1840 *Act of Union*, as examples of the envisioned constitutional arrangement for the Canadas. The focus is on the imagined rather than practical outcomes, to explore Upper Canadian settler nationalism, and the development of settler identity. The *Durham Report* is an important document to be analyzed, and settlers and imperial officials responded directly to it. It contains crucial ideas for the study of union in Upper Canada, and in British North America more broadly. Additionally, it provides what Ann Curthoys called a "manifesto for effective settler colonialism", based on policies of liberalization and consolidation that were employed elsewhere in Britain's settler empire.<sup>44</sup>

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<sup>44</sup> Jarret Henderson and Orion Keresztesi, "Remember, Resisit Redraw #04: The 1837-8 Rebellion", *Active History*, April 28<sup>th</sup>, 2017, <http://activehistory.ca/2017/04/remember-resist-redraw-04-the-1837-1838-rebellion/>; Ann Curthoys, "The Dog that Didn't Bark: The Durham Report, Indigenous Dispossession, and Self-Government for Britain's Settler Colonies", in *Within and Without the Nation: Canadian History as Transnational History*, eds. Karen Dubinsky, Adele Perry, Henry Yu (Toronto: University of Toronto Press, 2015).

Official and private correspondence between Governors and the Colonial Secretary are the final type of source considered by this thesis. These letters are useful as they provide contemporary analyses of issues facing settler society, as well as interpretations of the settler public sphere that informed the policy-making of the British Government. They also demonstrate the hopes for union, primarily that it would be a means to every end, resolving the myriad issues facing colonial society quickly and effectively.

Analyses of the Upper Canadian public sphere have their limitations. Though a greater portion of the male population in Upper Canada were enfranchised than in Britain, full participation in the public sphere remained mostly limited to white, wealthy, men, who typically occupied positions of influence. This thesis focuses on these perspectives, as it aims to understand the intellectual, political, and constitutional history of a colony with a highly limited franchise, and which actively excluded most inhabitants in a way that reinforced existing power structures. The franchise especially excluded women, racialized and Indigenous people, and labourers from participation in the settler public sphere, as well as other institutions of the emerging settler state. Colonialism in settler societies must be understood in its specific forms and contexts, which necessitates the continued study of settlers and historical processes. This thesis seeks to understand settlers' visions of their future and the process of forming a distinct settler identity and political culture.

This thesis explores how union was discussed and debated in the Upper Canadian public sphere. It traces the union debates from the 1820s through the violent 1830s, and demonstrates continuity in the arguments employed about union. The debate was framed

in the language of Britishness and the British constitution. They were driven by a growing sense of settler nationalism which promoted a dual identity as British and distinctly Upper Canadian, premised on continued expansion and entrenchment of the settler state.

The second chapter examines the first concentrated attempt to unite Canadas into a single political union through the 1822 *Bill of Union*, an imperial intervention in response to economic crises in the Canadas and in Britain. This bill sought to construct a legislative union of Upper and Lower Canada for what was described as the more efficient governance of the colonies, and was viewed as an efficient means to solve the majority of the problems facing the two Canadian colonies. Upper Canadian settler response, both opposition to and support for this bill, will be investigated as an early expression of settler nationalism, with close attention paid to the language used by settler politicians. Settlers such as John Macaulay and John Beverley Robinson demonstrated this settler nationalism through their respective support for and opposition to the measure. Though there was some support for union, many leading settler politicians opposed it, and attempts at imperial intervention in the governance of the colonies were temporarily abandoned.

Chapter Three investigates the aftermath of the Rebellion and the return of union as a practical policy option. It discusses settler reactions, focusing on their attempts to reframe political debate in the language of loyalty and British constitutionalism. It then engages in a close reading and textual analysis of sections of the *Durham Report* that discuss Upper Canada and recommendations for governance in British North America. Building on revisionist critiques of *The Durham Report*, such as Janet Ajzenstat's, this



chapter explores union as an end in and of itself, not just a means for realizing the recommendations of implementing responsible government and the assimilation of the French population of the Canadas. The *Durham Report* is investigated as a scheme of consolidation, a means to provide a framework for a broader British North America based on settler autonomy within the British Empire. This chapter then discusses the public meetings known as the Durham meetings, which were contested spaces in the Upper Canadian public sphere. Finally, it considers pamphlets that offered alternative narratives of colonial history and suggested alternatives to union.

Chapter Four explores the implementation of union, and the role settlers played in a transatlantic debate that altered not one, but two constitutions. It traces settler reactions from the appointment of Charles Poulett Thomson (later Lord Sydenham) to the implementation of union. It argues there was far more widespread support for union than conventional wisdom suggests, complicating constitutional histories and especially the Confederation literature by demonstrating the *Act of Union* was not solely an imperial imposition. This chapter discusses support for and opposition to the union measure demonstrating that, though there were different positions on the measure, all of the arguments were rooted in the same intellectual framework. Supporters and opponents of union drew on British, especially English history, and demonstrated their identity as both British and Upper Canadian. Upper Canadians' contributions through the press, pamphlets, parliamentary proceedings, and public meetings shaped the *Act of Union*. Although Upper Canadians were not the originators of the measure, they were active participants who made their opinions known.

This thesis argues the union debates demonstrate continuity in settler's arguments about inter-colonial union, but change in the constitutional principles governing settler society. Settlers participated in transatlantic debates about union that contributed to governance beyond the boundaries of Upper Canada. Different visions of union operated within the same framework, based on the British constitution and connection. These debates demonstrate a growing sense of settler nationalism, which combined desire for colonial autonomy and practical attachment with the expression of sentiments of affection to the British imperial state, institutions, and identity. Far from a linear, direct route from colony to nation, established with the success of Confederation, the process and imagining of union began well before the 1860s. The eventual outcome – a mostly self-governing settler dominion – was not inevitable, preordained, or organic, but rather grew out of settler ideas of Britishness, and the pursuit of a society without the perceived defects of the imperial state. Imagining a settler dominion in British North America was an ongoing process that reflected emerging citizens' negotiations of identity. This thesis explores the intellectual history of Upper Canada, as well the principles and ideas behind union that formed the basis of the colony's political culture.

**Chapter Two**  
**Imperial Intervention:**  
**The *Bill of Union* and Early Expressions of Settler Nationalism, 1822 – 1828**

The reorganization of the British North American colonies into a single political union occupied a place in the settler imagination since at least the arrival of the Loyalists in 1783.<sup>1</sup> The system of confederation was not devised *ex nihilo* in the 1860s, as Donald Creighton and Chris Moore suggested, nor was it contingent on British support, which Ged Martin traced to 1837; rather, ideas of union had long been considered and advocated by settler politicians in private and public spheres.<sup>2</sup> This chapter complicates the conventional understanding of Confederation by demonstrating the problems and ideas that produced the *British North America Act, 1867* were not unique to the late 1850s and 1860s, but were present in the Upper Canadian public sphere in the debates surrounding the 1822 *Bill of Union*. The roots of Confederation are thus far deeper than the literature suggests and though the debates of the 1820s cannot be viewed as determinative or even causal factors, they do demonstrate continuity in the issues facing the developing settler society. Discussions of reform of British institutions took place throughout the 1820s, and many of those concepts and debates found themselves manifested in the colonial setting. Addressing revenue disputes between the Canadas, as well as complaints of maladministration, in 1822 the Colonial Office proposed a legislative union of the Canadas.

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<sup>1</sup> Cecilia Morgan. *Building Better Britains? Settler Societies Within the British Empire, 1783-1920* (Toronto: University of Toronto Press, 2016), 45, 66.

<sup>2</sup> Christopher Moore, *1867: How the Fathers Made a Deal* (Toronto: McClelland and Stewart, 1997); Donald Creighton, *The Road to Confederation 1863-1867* (Don Mills, ON: Oxford University, 2012); Ged Martin, *Britain and the Origins of Canadian Confederation, 1837-1867* (Vancouver: UBC Press, 1995).

This imperial intervention in colonial affairs allows for insights into Upper Canadian identity and political culture, because debates over union drew on contested ideas of Britishness, connection to empire, fear of American annexation, liberty, loyalty, and what the participants in the union debates referred to as the construction of a common nationality. This idea of a common nationality was based on a shared identity as Britons and settlers; the British North American colonies would be bound together through a common connection to the British crown, but defined by their status as inhabitants of British North America. These identities were not binary or exclusive, but a spectrum bounded by Britishness. Nationality thus had more to do with language and identity than with the construction of an independent nation-state. Through the debate, many propertied, white, male settlers expressed nascent notions of settler nationalism, which advanced a vision of a colonial exceptionalism while promoting continued attachment to the imperial state, institutions, and identity. By the mid-nineteenth century this would develop into a major driving force for Canadian politics as the settler state continued to develop and expand, and settlers increasingly advocated for colonial self-government.

This chapter begins by examining the *Bill of Union* of 1822, and settler responses to it. It then explores a proposal for a general union of British North American provinces, made by John Beverley Robinson, situating it in the context of the broader debates and political culture of the colonies while exploring the imagination of a new kingdom in British North America. Finally, this chapter considers arguments against Robinson's proposal, and returns to the *Bill of Union*, which was abandoned by the British Parliament by 1824, though it remained nominally under consideration until being scrapped by a

select committee in 1828. Through the settler responses to the *Bill of Union* in the emerging public sphere, primarily pamphlets, newspapers, and public meetings, this chapter offers a reassessment of settler nationalism that coincided with the growth of deliberative democracy and the public sphere.<sup>3</sup> This analysis of Upper Canadian politics through debates of union supports McNairn's and Wilton's arguments about Upper Canadian political culture and the public sphere as an active space where Upper Canadians effectually shaped their governance systems. Additionally, it builds on the understanding of Upper Canada as a distinct colonial space shaped by interactions with two Empires, though the debates themselves were limited by the framework of Britishness and the British constitution.<sup>4</sup> In this way, it contributes to the challenge of the traditional interpretation of Upper Canada as an inherently and overwhelmingly loyal, anti-American, conservative, and stagnant colony.<sup>5</sup> Instead, Upper Canada was an active and contested space, shaped by settlers who debated and defined the meaning of Britishness for themselves through the language of liberty and loyalty. By analyzing the debates of union in pamphlets, newspapers, and public meetings, this chapter focuses on one issue debated in the colonial public sphere and explores the arguments employed by settlers that demonstrate the development of a specific Upper Canadian identity.

Political tensions in the Canadas, especially over revenues from the port of Quebec, prompted the introduction of a bill in Parliament intended to unite Upper and

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<sup>3</sup> Jeffrey L. McNairn, *The Capacity to Judge: Public Opinion and Deliberative Democracy in Upper Canada, 1791-1854* (Toronto: University of Toronto Press, 2000).

<sup>4</sup> Cecilia Morgan, *Building Better Britains*, xxv. Jane Errington, *The Lion, The Eagle, and Upper Canada: A Developing Colonial Ideology* (Montreal: McGill-Queens University Press, 1988), 5.

<sup>5</sup> McNairn, *The Capacity to Judge*; Carol Wilton, *Popular Politics* (Toronto: University of Toronto Press, 2000); S.F. Wise, *God's Peculiar Peoples: Essays on Political Culture in Nineteenth Century Canada*, ed. A.B. McKillop and Paul Romney (Ottawa: Carleton University Press, 1988); David Mills, *Idea of Loyalty in Upper Canada, 1784-1850* (Montreal: McGill-Queens University Press, 1987).

Lower Canada through a legislative union. This legislative solution was envisioned by the Tory ministry of Lord Liverpool, imperial politicians, including the Secretary of State for War and the Colonies, Lord Bathurst, a Member of Parliament with business interests in the Canadas, Edward Ellice, and the Colonial Office, as an expedient and inexpensive solution to the political instability in both Canadas. The government expected minimal resistance from opposition Members of Parliament or from the colonies, and as such the bill was introduced to the British House of Commons near the end of its session, in July of 1822.<sup>6</sup> Opposition members of British Parliament objected to the timing and insisted that passing such a bill without consulting the inhabitants of both provinces would be an injustice.<sup>7</sup> Such a step was an unprecedented, and therefore an unexpected shift in the imperial constitution. John Macaulay, one of the owners and editors of the *Kingston Chronicle*, a former student of John Strachan's, and a leading member of the print community of Upper Canada, speculated there was no reason to believe the delay was intended to allow for settlers to submit petitions and make their opinions known.<sup>8</sup> However, the British experience of the American Revolution had produced an important shift in imperial attitudes to colonial governance, and officials in London were reluctant to impose a new constitution on the Canadas without first gaining their consent.<sup>9</sup> Far from being the proverbial silver bullet for instability in the colonies, the 1822 bill

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<sup>6</sup> William Ormsby, "The Problem of Union 1822-1828" *Canadian Historical Review* 39, no. 4 (1958); James M. Colthart, "ELLICE, EDWARD," in *Dictionary of Canadian Biography*, vol. 9, University of Toronto/Université Laval, 2003-, (accessed May 10, 2017). Ellice was a Whig Member of Parliament, and director of the Hudson's Bay company and supported union as a means to facilitate more rapid development of Britain's North American colonies.

<sup>7</sup> *Kingston Chronicle*, September 20<sup>th</sup>, 1822.

<sup>8</sup> *Kingston Chronicle*, July 19<sup>th</sup>, 1822; Robert Lochiel Fraser, "MACAULAY, JOHN," in *Dictionary of Canadian Biography*, Vol. 8, University of Toronto/Université Laval, 2003-, accessed May 12, 2017.

<sup>9</sup> Eliga H. Gould. "Liberty and Modernity: The American Revolution and the Making of Parliament's Imperial History" in *Exclusionary Empire: English Liberty Overseas 1600-1900* ed. Jack Greene (Cambridge: Cambridge University Press), 128-130.

provoked fierce debates in public sphere as Upper Canadians reacted through public meetings, petitions, newspapers, and pamphleteering.<sup>10</sup> These different mediums of the public sphere allowed for the diffusion of printed material expressing a range of opinions on the subject of union. Supporters and opponents of union used many of the same tactics, and much of the same language, operating firmly within an ideological framework of loyalty and British constitutionalism.

Having devised a measure to end the political instability in the Canadas, and in the face of fierce opposition from members of parliament, Parliament was unwilling to make constitutional changes without input from settlers in the Canadas, and debate shifted to the colonies.<sup>11</sup> Settlers understood the significance of the union measure and they “saw involved in that question their rights, liberties, and Constitution.”<sup>12</sup> The language employed by settlers demonstrates the shifting principles of authority in the colony as it “was but fair, just, and honourable to meet the question openly, which could not be done without putting it in the power of their constituents to decide the justice or injustice of the measure.”<sup>13</sup> The idea of debate in the public sphere based on reason was increasingly important as settlers developed their own system of deliberative democracy.<sup>14</sup> Public opinion, which was still emerging as a legitimate source of authority, was to be formed through the careful and objective consideration of arguments

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<sup>10</sup> See Michael Eamon, *Imprinting Britain: Newspapers, Sociability and the Shaping of British North America* (Montreal & Kingston: McGill-Queens University Press, 2015); Jeff McNairn, *The Capacity to Judge: Public Opinion and Deliberative Democracy in Upper Canada, 1791-1854* (Toronto: University of Toronto Press, 2000); and Carol Wilton, *Popular Politics and Political Culture in Upper Canada 1800-1850* (Montreal: McGill-Queens University Press, 2000) for the discussion of the importance of print culture, and public meanings. McNairn and Eamon focus on the importance of print culture and the use of reason, and Wilton examines the significance of public meetings and petitions.

<sup>11</sup> *Kingston Chronicle*, November 1<sup>st</sup>, 1822.

<sup>12</sup> *The Gleaner and Niagara Newspaper*, February 8<sup>th</sup>, 1823.

<sup>13</sup> *The Gleaner and Niagara Newspaper*, February 8<sup>th</sup>, 1824.

<sup>14</sup> McNairn, *Capacity to Judge*.

regarding the general good. In addition to the operational factors of taxes and other revenues, military defence, fear of American annexation, and desire for a continued connection to Britain, many of the participants in these debates were concerned with ideas of loyalty and liberty, which they connected to the enjoyment of the benefits of the British constitution.<sup>15</sup> Although economic and material concerns were crucial motivating factors for the introduction of the 1822 *Bill of Union*, settlers' liberties and the constitution were also an important part of colonial debate. The constitution and British liberties were at once both abstract and concrete. Settlers compared types of liberty, with some claiming to "like American liberty well, but greatly prefer British liberty."<sup>16</sup> Also featured prominently in the debates were notions of impartiality, reason, and interest; these were tools employed by settler politicians intended to shape public opinion and convince the Colonial Office, and they now provide a glimpse into Upper Canadian political culture.

Disputes over taxes and revenues were one of the fundamental concerns of both settler politicians and imperial officials, and ultimately were a crucial component of this attempt at colonial reorganization. The joint legislature's responsibility for the administration of funds would, at least in theory, remove the perceived main point of tension between Upper and Lower Canada. This assumption by imperial officials did not go unchallenged as settler politicians such as John Beverley Robinson and John Strachan suggested that Lower Canadians, who would temporarily hold a majority in the joint legislature, would prevent the ambitious public work schemes planned in Upper Canada

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<sup>15</sup> Michel Ducharme, *Ideas of Liberty in the Canadas in the Age of Atlantic Revolutions 1776-1838* (Montreal: McGill-Queen's University Press).

<sup>16</sup> *Colonial Advocate*, May 20<sup>th</sup>, 1824, 5.



that they viewed as necessary for the development and prosperity of the colony.<sup>17</sup> This combined with a worry that Lower Canadian assemblymen would view the Upper Canadians as “Yankees or Indian traders” reveals an awareness of perceptions of Upper Canadians and settler attitudes towards Indigenous people. Firstly, the presence of American settlers and fear of American annexation of the colony was an important concern and references to it are found throughout the printed materials of the 1820s. Secondly, the reference to “Indian traders” recognizes a relationship between Indigenous people and settlers in Upper Canada. Robinson did not elaborate on it, but the context suggests it would be viewed unfavourably by Lower Canadian assemblymen. Strachan’s pamphlets expanded on these worries, and they argued the two Canadas had completely different systems of taxation and public works, which could not be combined without privileging one of the two methods.<sup>18</sup>

Intended to ensure the stability of the colonies, the *Bill of Union* provided for the continuance of laws passed by the assemblies of both the houses. This provision allowing “any Act or Acts of the Provincial Legislatures, which are now in force in either of the said Provinces respectively, shall remain and continue in force with such Province” unless altered by the joint legislature demonstrated a commitment to continuing the norms of governance established in the late eighteenth century.<sup>19</sup> This provision was designed to accommodate the concerns of French and English settlers, and would have allowed for the continuation of Civil Law in Quebec while protecting Upper Canadian

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<sup>17</sup> John Beverley Robinson quoted in Ormsby, “The Problem of Union”, 279; John Strachan, *Observations on a “Bill for uniting the legislative councils and assemblies of Lower Canada and Upper Canada in one legislature, and to make further provision for the government of the said provinces”* (London: W. Clowes – Northumberland Court, 1824), 10.

<sup>18</sup> John Strachan, *Observations*. 13-16.

<sup>19</sup> Bill of Union, 1822. Page 5, Section 14.

enjoyment of the British constitution. This arrangement for governance provides an early outline for imaginations of British North American federalism that predate its formal development. The bill itself cannot be viewed as a federative scheme, and thinly hidden beneath the text are assumptions of gradual assimilation of the French population resulting in the triumph of British institutions within a centralized system of government. These intentions are confirmed later in the bill, in sections that insist debates from the Legislative Council and Assembly will be printed in English only, and that fifteen years after the bill was enacted the debates themselves would be conducted only in English.<sup>20</sup> The effectiveness of the measure was never tested, but the language employed by the bill reveals one of the central preoccupations of Upper Canadian settler and imperial authorities.

Settler support for the *Bill of Union* combined two important elements, the idea of a distinct Canadian character based on Britishness, and a stated respect for French Canadians, a concession they were willing to make so long as the English language and institutions were secured. Supporters of union argued the need to overcome local jealousies, and forming a “strong and united people, viewing one another only in attachment to their Constitution and their Sovereign” while not violating the rights of any class of society.<sup>21</sup> One united people bonded through their Constitution and Sovereign is foundational to the construction of an imagined British settler community. Classes, it should be noted, refer not only to economic class, but a broad range of social groups; this acknowledgement of communal rights appears out of place with many analyses of British liberalism. The idea of resolving jealousies and local tensions was a central component of

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<sup>20</sup> Bill of Union, 1822, Page 8, Section 24.

<sup>21</sup> *Kingston Chronicle*, November 1<sup>st</sup>, 1822.

the union debates, and the stance taken by John Macaulay in the *Kingston Chronicle* is reflected by the language of pro-union petitions, and in a letter submitted to the *Niagara Gleaner* under the pseudonym Terra. This anonymous contributor, and other Upper Canadians viewed Lower Canada as possessing considerable competitive advantages because of its geographic location, advantages which could only be removed through union.<sup>22</sup> Through a union and the resolution of jealousy a new colony, according to supporters of the *Bill of Union*, would be able to more effectively develop its resources and grow into a more prosperous British possession.

While it is impossible to determine the exact level of support for union in Upper Canada, there were significant demonstrations in favour of the measure in the colonial press and in public meetings held around the province.<sup>23</sup> After the first reports of public meetings supporting union in Lower Canada appeared in Upper Canadian newspapers in mid-October of 1822, the pages of the *Kingston Chronicle* frequently contained reports of public meetings in support of union, as well as comments sent to the editor on the subject. Though insisting on editorial independence and professing a commitment to fairness and reasoned debate, the preference of the editor appears clear given the amount of space provided for pro-Union letters and reporting. Public meetings in favour of union passed resolutions that included, among other things, an acknowledgement of the problems caused by the division of the Canadas in 1791, and a conclusion that union was the only practicable way of solving those problems.<sup>24</sup> These petitions drew heavily on the

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<sup>22</sup> *The Gleaner and Niagara Newspaper*, March 15<sup>th</sup>, 1823.

<sup>23</sup> *Weekly Register*, August 29<sup>th</sup>, September 5<sup>th</sup>, and October 3<sup>rd</sup>, 1822; *Kingston Chronicle*, November 22<sup>nd</sup> and December 20<sup>th</sup>, 1822, cited McNairn, *Capacity to Judge*, 174.

<sup>24</sup> *Kingston Chronicle*, October 25<sup>th</sup>, November 1<sup>st</sup>, November 8<sup>th</sup>, and November 29<sup>th</sup>. Includes meetings from Montreal, Frontenac, Niagara (reprinted from *The Gleaner*), Perth, and Grenville.

language of Britishness and the British constitution and suggest a political system built on the continued expansion, spatially and politically, of settler colonies in British North America. Additionally, supporters of union, in much of their printed material, offered their thanks for this imperial intervention, viewing it not as an imposition but as a natural and just exercise of enlightened British governance.<sup>25</sup>

Opposition to the bill was rooted in confidence in British laws and institutions, which some Upper Canadians feared would be put at risk by uniting with Lower Canada.<sup>26</sup> Settlers claimed the successful growth and development of Upper Canada were the product of thirty years of enjoying the benefits of a British constitution, whereas any defects were the result of maladministration of the colonies.<sup>27</sup> Supporters and opponents of union drew on the same language of constitutionalism, yet held vastly different visions for what the implementation of these principles meant in practice. Opponents in the Niagara region argued that the constitution should only be altered if Britain's was also being amended.<sup>28</sup> Upper Canadians viewed the *Bill of Union* anxiously because they worried about losing control of their institutions, believing the scheme would allow for a domination of Lower Canadian interests, which in turn would result in the gradual loss of their British character.<sup>29</sup> Supporters of union suggested these

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<sup>25</sup> *The Gleaner and Niagara Newspaper*, January 25<sup>th</sup>, 1823.

<sup>26</sup> *The Gleaner and Niagara Newspaper*, January 4<sup>th</sup> and 11<sup>th</sup>, 1823.

<sup>27</sup> See Jeff McNairn, *The Capacity to Judge*, and Carol Wilton, *Popular Politics and Political Culture in Upper Canada, 1800-1850* for detailed discussions of the importance of invoking the British constitution in political debates in the colonies. References to the British constitution were not limited to debates about union, but was invoked in many other clashes between reformers and government supporters.

<sup>28</sup> *The Gleaner and Niagara Newspaper*, January 4<sup>th</sup>, 1824 reporting on resolutions passed by a public meeting at Niagara in November 1822. The *Gleaner* reported about petitions both for and against union, and republished letters from English Lower Canadians, who highlighted the continued Britishness of the colony. See Wilton, *Popular Politics* for an in-depth analysis of petitions from government supporters and opposition members; McNairn, *Capacity to Judge* for different visions of British constitutionalism in the 19<sup>th</sup> century.

<sup>29</sup> *The Gleaner and Niagara Newspaper*, January 11<sup>th</sup>, 1823.

arguments were based on misinformation and overreaction on the part of politicians who were a part of a system of maladministration.<sup>30</sup> Similar arguments would appear in the later union debates explored in Chapters Three and Four, and especially in the context of the Durham debates. Another criticism of opponents of union levied by its supporters was that they feared progress, as the union measure could help promote the growth and development of the Canadas.<sup>31</sup>

Though the fear of American annexation loomed large in the minds of Upper Canadian politicians and was frequently referenced in the newspapers and pamphlets of the early nineteenth-century, this did not translate into anti-American sentiment as traditional understandings of Upper Canada, and Canada itself, would suggest. Far more complex than simply anti-American as traditional accounts suggest, settlers combined ideas of loyalty and liberty into a construction of Britishness that they used to differentiate themselves from Americans.<sup>32</sup> Additionally, as historians of Upper Canada have demonstrated, settlers frequently drew on American policy ideas, a practice that extended into discussions of union.<sup>33</sup> Even while drawing on some American ideas of governance, and the British experience leading up to the American Revolution, Upper Canadians were careful to distance themselves from revolution and rebellion, a tactic that will be explored later in this chapter. Instead, they focused on loyalty and commitment to the British monarch, constitution, and tended to express affection for British liberty.

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<sup>30</sup> James Stuart, *Remarks on a Plan*, 19.

<sup>31</sup> *Kingston Chronicle*, November 1<sup>st</sup>, 1822.

<sup>32</sup> Jerry Bannister, "Canada as Counter Revolution: The Loyalist Order Framework in Canada 1750-1840" in *Liberalism and Hegemony* eds. Jean François Constant and Michel Ducharme (Toronto: University of Toronto Press, 2009). 103-105.

<sup>33</sup> Jane Errington, *The Lion, the Eagle, and Upper Canada: A Developing Colonial Ideology* (Montreal: McGill-Queen's University Press, 1987), 5. Carol Wilton, *Popular Politics*, 37. Morgan, *Building Better Britains*, 57.

Opposition to, support for, and alternate proposals of union all drew on the language of loyalty, liberty, and British constitutionalism, employing *pro forma* statements of deference, invoking sentiments of loyalty and the imagery of empire.

These debates of union provide insights not only into the intersections of the British and American identities of the settlers, but also into the idea of constructing a new colony premised on continued connection to the British crown.<sup>34</sup> The idea of a new colony being built is a limited vision of union when compared to some of the schemes proposed by Upper Canadians for a general union of the provinces of North America which will be investigated later in this chapter. However, this idea of newness, rather than simply combining existing constituencies, is important to understanding attempts at fostering a common nationality in the colonies. The new and common nationality was to be built on a connection to Britain, a combination of pride in participation in the War of 1812 and continued enjoyment and participation in English liberties and the British constitution. This chapter will explore the different ways that Upper Canadian settlers envisioned a national character for the Canadas, a theme that will feature prominently in Chapter 3 as divisions between the Canadas persisted into the 1830s.

In the discussion of national character, settlers employed language of Englishness and Britishness in their arguments, and seemed to use the two almost interchangeably. References to the constitution primarily use British, though in some instances, even the constitution was referred to as English. According to John Beverley Robinson, “[Upper

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<sup>34</sup> *The Gleaner and Niagara Newspaper*. The public meeting held in 1822 referred to the combined colony as “new”, and this idea of newness is a part of process of developing a national identity. Strachan in “Observations” references the idea of fostering a “national principle” between the two colonies and the “parent country.” Stuart, *Letter to Bathurst*, 16. Stuart references the building of “a common national character”, which would distinguish them from the United States and strengthen the connection to Britain.

Canada], in the 33 years separate from Lower Canada enjoyed a constitution and code of laws in all respects English.”<sup>35</sup> This does not seem to be a throwaway comment or a careless use of English rather than British, but an intentional privileging of Englishness by Robinson. Similar sentiments appear in the *Gleaner and Niagara Newspaper*, and in the *Kingston Chronicle*, where contributors made specific reference to English values and character. Britishness in the settler imagination was not an amalgam of four equal constituent parts; English identity was prioritized and emphasized in the debates of the public sphere.<sup>36</sup> The distinction between England and Scotland is emphasized by Robinson, as he drew a parallel to Upper and Lower Canada arguing that “when Scotland was united to England, she was united to a country whose constitution, whose laws, whose enterprise, science, and civilization had long been the admiration of the world.”<sup>37</sup> Though only referring to one other nation, the idea of English superiority was important to many prominent settlers. Acts of Union with Scotland and Ireland did not construct a federal polity in Britain in which all interests and nationalities were represented equally, but rather promoted an extension of English influence and power. Additionally, it is important to note that many settlers of Irish and Scottish descent did not participate in this idealization of Englishness. William Lyon Mackenzie, for example, born in Scotland and a recent migrant to the Canadas, tended to draw primarily on language of Britishness rather than that of Englishness. Debates of Britishness drove much of nineteenth century

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<sup>35</sup> Robinson, “A Letter to the Earl Bathurst”, 5.

<sup>36</sup> Nancy Christie, “Introduction” in *Transatlantic Subjects: Idea, Institutions, and Social Experience in Post-Revolutionary British North America* (Montreal: McGill-Queen’s University Press, 2008), 16. *The Gleaner and Niagara Newspaper*, January 11<sup>th</sup>, 1823.

<sup>37</sup> Robinson, *A Letter to the Earl Bathurst*, 19.

settler politics and understanding its connotations and uses helps to better understand Upper Canadian political culture and identity formation.

One important opponent of union within the colonial administration was John Strachan, forty-four years old in 1822, and a leading member of what would become known as the Family Compact.<sup>38</sup> Strachan was a teacher, Anglican clergyman, and member of the Legislative Council of Upper Canada who participated in the union debates on both sides of the Atlantic. Strachan taught many of Upper Canada's leading politicians and was a firm proponent of loyalty and loyalism. Though opposed to the *Bill of Union*, he supported the overall purpose, the fostering of a national principle connecting Upper and Lower Canada to Britain. Strachan believed a union could help Canadians in both provinces to move from viewing each other as "springing from different nations" and allow them to "acknowledge themselves as members of the same nation."<sup>39</sup> This was a major preoccupation of settlers, expressed at the popular level, suggesting a union of the two colonies "distinct in origins, language, mores and customs" may produce renewed efforts for ascendancy between the two nations.<sup>40</sup> This particular public meeting believed that Upper Canada remaining separate from Lower Canada was more likely to ensure what they viewed as continued prosperity and stability. Strachan himself seemed skeptical of the *Bill of Union's* ability to achieve the stated ends of prosperity and stability, highlighting French Lower Canadian resistance to assimilation and a general unwillingness of the Lower Canadian assembly to promote British

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<sup>38</sup> G.M. Craig, "STRACHAN, JOHN," in *Dictionary of Canadian Biography* Vol. 9, University of Toronto/Université Laval, 2003-, accessed March 10, 2017.

<sup>39</sup> John Strachan. *Observations*, 2.

<sup>40</sup> *The Gleaner and Niagara Newspaper*. January 11<sup>th</sup>, 1823. From the printed resolutions of a public meeting held in November 1822 urging against the adoption of the union measure. See also: Doughty and Story pp. 140-2, *Petitions from Kingston and Wentworth Country; Journals of Assembly, 1823*, 295 quoted in Gerald Craig, *The Formative Years*, 103.



settlement.<sup>41</sup> Attempting to resolve the issue of two settler nations within the framework of a single imperial entity is a recurring theme in nineteenth-century Canadian history, and assimilationist perspectives such as Strachan's were common.

Strachan's opposition to the *Bill of Union* was rooted in objections to specific provisions, which he outlined only after declaring his support for the broad purpose of union. Avoiding general criticism of this measure, Strachan frames his critique in the language of loyalty and the general interest, in the name of securing the continued enjoyment of the British constitution. Three of his major criticisms were based on the *Bill of Union* failing to provide sufficient means for achieving its stated objectives. Firstly, adding two representatives of the executive to the lower house was a "useless deviation from the principles and practice of the constitution," an opinion shared by at least one public meeting in the Niagara region.<sup>42</sup> A second measure opposed by Strachan was the extension of parliamentary sittings from four years to five, arguing seven years would be preferable, given that five would hardly improve the position of the executive *vis-à-vis* the legislature.<sup>43</sup> Strachan argued for a septennial parliament because he believed it would strengthen the executive, thus protecting the colony from any democratic or republican influences, influences that would be amplified if union was implemented. Thirdly, he felt the property restrictions were insufficient for the purpose of securing an English majority in the united legislature and asked for higher restrictions on suffrage.<sup>44</sup> Imposing property restrictions was a major point of contention for Upper Canadians, many of whom believed a wide franchise was an important part of their

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<sup>41</sup> John Strachan, *Observations*, 10.

<sup>42</sup> Strachan, *Observations*, 4. *The Gleaner and Niagara Newspaper* January 11<sup>th</sup>, 1823.

<sup>43</sup> Strachan, *Observations*, 4.

<sup>44</sup> *Ibid.*, 10-12.

political inheritance from Great Britain.<sup>45</sup> Strachan's position was not framed in opposition to the principle of union itself, as many of the anti-union meetings were, but to its specific form and timing. Support for the measure, but firm opposition to specific provisions was not limited to Strachan, and was in fact a common feature of the union debates of 1822.

While facing opposition, albeit polite and deferential in tone, from prominent representatives of the Upper Canadian assembly such as John Beverley Robinson and John Strachan, the proposed union measure found support from one of the most prolific Upper Canadian Reformers, William Lyon Mackenzie. Mackenzie arrived in Upper Canada from Scotland in 1820, and within four years founded the *Colonial Advocate*; which would become an important Reform newspaper that promised to “discuss public men and public measures, with a freedom and plainness rather unusual to the greater part of our colonial publications.”<sup>46</sup> The *Advocate* did not promise impartiality but independence, which was deliberately chosen to connect with contemporary ideas of autonomy and agency, of being patriotic above potential influences. Clearly in favour of a union, Mackenzie argued if the imperial government based the union “on liberal principles, they will confer on us a boon for which future generations will call them blessed.”<sup>47</sup> Despite being in favour of a liberal union, he argued that the withdrawn initial version of the bill had pleased no one.<sup>48</sup> Additionally, in this first issue of the *Advocate*, Mackenzie advocates greater responsibility and autonomy for the Canadas,

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<sup>45</sup> *The Gleaner and Niagara Newspaper*, January 4<sup>th</sup>, 1823.

<sup>46</sup> *Colonial Advocate*, May 20<sup>th</sup>, 1824. The *Advocate* was openly partisan and became an important and increasingly vocal source of opposition to the colonial administration.

<sup>47</sup> *Colonial Advocate*, May 20<sup>th</sup>, 1824. 4.

<sup>48</sup> *Colonial Advocate*, May 20<sup>th</sup>, 1824. 4.

employing the language of family, a common metaphor for imperial relationships in the Anglo-American world. Contrasting the behaviour of Canada as “always obedient and dutiful” to her sister, the United States, who “set aside parental authority” to become independent, Mackenzie argues that Canada should be rewarded with more “freedom of action.”<sup>49</sup> Requests for increased autonomy while simultaneously expressing loyalty was a common component of settler nationalism, and a foundational element of political debate in British settler colonies.

The official responses of the Legislative Council and House of Assembly of Upper Canada were duly deferential and compliant to the wishes of the imperial state, though their reasons for expressing deference were vastly divergent. In a letter signed by William Dummer Powell, the Legislative Council deferred to British Parliament, crediting them with the policies that permitted the development of the colony from “a dreary wilderness to a fruitful and populous country.”<sup>50</sup> The Lieutenant Governor, in dissolving the assembly, gratefully thanked them for their kind address and assured them that the *Bill of Union*, which was still being debated in Cabinet, would be based on the interests, safety, and prosperity of both Canadas.<sup>51</sup> The House of Assembly had entirely different reasons for refusing to take a stance either in support of or in opposition to union. Recognizing the theoretical significance of elections, and perhaps seeking to avoid the ire of the electorate, the House stated that they as “the representatives of the people do not feel themselves justified in expressing the opinion of their constituents so materially affecting the constitution of the Country” given that they were elected before

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<sup>49</sup> Ibid. 10.

<sup>50</sup> *The Gleaner and Niagara Newspaper*. March 15<sup>th</sup>, 1823.

<sup>51</sup> *The Gleaner and Niagara Newspaper*. March 23<sup>rd</sup>, 1823.

the *Bill of Union* was proposed.<sup>52</sup> They also alluded to settler petitioning, which had become increasingly common in Upper Canada by the 1820s.<sup>53</sup> The imperial Parliament, despite waiting for the settler feedback, was not asking for a vote from either house of the colonial government. Relying on a vote from the colonial legislature would have implicitly recognized the right of that body to make constitutional decisions, a right which was well beyond the level of autonomy enjoyed by the Canadas. Officials of empire recognized the right of settlers to voice their opinion, but not of colonial legislatures to decide.<sup>54</sup>

Debates about the legislative union of the Canadas also created the space for the imagining of a broader union of British North American colonies into a confederation within the British Empire. Though imaginings of some form of this union existed since at least the arrival of the Loyalists in 1783, this was an active and conscious effort to devise a scheme of union. These schemes drew on the same rhetoric employed in the union debates and were offered as alternatives to the *Bill of Union*, which produced significant opposition in the Canadas.<sup>55</sup> Suggestions of a broader confederation were no less contentious than the legislative union of the Canadas, drawing opposition from a variety of colonial sources, and ultimately being rejected as “ineffectual for the objects intended on the face of it and one which will be found unpracticable in every detail and unpolitic if it were practicable.”<sup>56</sup> Proposals for a general union or an imperial federation received almost no attention in the press compared to the legislative union of Upper and

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<sup>52</sup> *The Gleaner and Niagara Newspaper*, March 1<sup>st</sup>, 1823.

<sup>53</sup> Carol Wilton, *Popular Politics*, 7, 38.

<sup>54</sup> *Kingston Chronicle*, September 20<sup>th</sup>, 1822.

<sup>55</sup> Ormsby, “The Problem of Union”, 281.

<sup>56</sup> Colonial Office 42/194, 291-4, Review of a Plan for Uniting the Provinces of North America under a Congress or General Legislature, April 2, 1823 quoted in Ormsby, “The Problem of Union,” 292.

Lower Canada. Ultimately, the Colonial Office was, at this time, uninterested in broad schemes of British North American union, but remained committed, at least until 1824, to the uniting of the Canadas. Despite this, schemes of union reveal early forms of settler nationalism, predicated on building a better Britain firmly rooted in continued participation in the imperial project.

At the time of the union debates, John Beverley Robinson, the thirty-one year old ambitious Attorney General of Upper Canada and member of the House of Assembly, initially offered limited support for the proposed measure, with several significant reservations.<sup>57</sup> A former student and prominent ally of John Strachan, Robinson was closely associated with the colonial administration, and as an ardent supporter of Empire he was committed to ensuring the continued connection between Britain and Upper Canada. Robinson was in London at the time that Lord Bathurst, the Tory Colonial Secretary, was considering introducing a bill for the Union of the Canadas; taking advantage of this timing, Robinson gladly offered his opinions to the Colonial Office and sought to secure Upper Canadian interests.<sup>58</sup> Additionally, he warned his associates in Upper Canada about the measure, which he feared would lead to Upper Canada becoming a mere dependency of Lower Canada, he urged them to express their views that he rightly suspected were similar to his own.<sup>59</sup> The Tory government expected little opposition to the bill, having received assurances from the opposition of their support, and was shocked when opposition members resisted the introduction of a constitutional

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<sup>57</sup> Robert E. Sanders, "ROBINSON, Sir JOHN BEVERLEY" in *Dictionary of Canadian Biography* Vol. 9 University of Toronto and Université Laval, 2003-, accessed March 10, 2017; Philip Buckner, *Transition to Responsible Government* (Westport, CT: Greenwood Press, 1985), argues that Robinson sought to secure a career in London or the Colonial Office through his visit and work on the *Canada Trade Bill*.

<sup>58</sup> Ormsby, "The Problem of Union", 280.

<sup>59</sup> O.A. Eleventh Report, 1914, *Journals of the House of Assembly, 1823*, p. 257, Robinson to Hillier, August 27<sup>th</sup>, 1822, cited in Gerald Craig, *The Formative Years*, 102.

bill without any consultation of the provinces involved.<sup>60</sup> Indicative of broader trends in governance of the colonies since the settler revolution in the American colonies, Parliament sought to acquire a sense of Upper Canadian opinion prior to altering their constitution. After a postponement of the consideration of the measure to the next session, Robinson received word from Upper Canada that the Lieutenant Governor Peregrine Maitland was opposed to the measure. Robinson remained in London to continue to represent and secure Upper Canadian interests. While in London, he met frequently with the Undersecretary of State for War and the Colonies, Robert Wilmot-Horton, another Tory, who believed the bill would improve the administration of the colonies. Robinson, encouraged by signs of Upper Canadian opposition to the *Bill of Union*, suggested what he called a “general legislative union of the British Provinces in North America,” a proposal that Horton encouraged him to write and send to the Colonial Office.<sup>61</sup>

Robinson’s initial plan, drafted as a letter and printed as a pamphlet, included an extract of a paper by a Chief Justice of Lower Canada, Jonathan Sewell, who proposed a union of the British provinces of North America almost a decade earlier. The pamphlet begins with a description of the character and origins of settlers who arrived after 1783, seeking to place them within a tradition of loyalty, framing their arrival as fleeing from American persecution or attachment to His Majesty’s government.<sup>62</sup> Establishing the settlers’ credentials as anti-republican and pro-British was crucial for Robinson’s framing

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<sup>60</sup> Ormsby, “The Problem of Union,” 285.

<sup>61</sup> John Beverley Robinson and Jonathan Sewell, *Plan for A General Legislative Union of the British Provinces of North America* (London: W. Clowes Northumberland-Court, 1824). Sewell was born in Massachusetts, his family returned to London during the Revolutionary War, experiences which informed his ideological outlook.

<sup>62</sup> Robinson and Sewell, *Plan for A General Union*, 3.

of the proposal of a general union and promoting the strengthening of the connection between the North American colonies and the imperial state. By combining the legislatures of the provinces, Sewell reasoned that “mere local prejudices or attachments would be sunk and the interests of the empire could be considered as a whole.”<sup>63</sup> Themes of local attachment, personal interest, and empire were commonly found in colonial debate, and the idea of union as furthering the interests of empire rather than those of any one province is a central component of union debates. These arguments about personal and local interest by settlers demonstrate that Upper Canadians were grappling with similar questions as other polities in the Atlantic World.<sup>64</sup> By placing the interests of empire first, a continued commitment to British government and institutions was established, ensuring his proposal could not be interpreted as a true expression of settler autonomy even while advocating for an increase in responsibility for colonial administration. In the case of Robinson and Sewell, these references appear less subversive, founded in a desire to demonstrate commitment to Britain, in the hopes that Britain would remain invested in the success and stability of the colonies.

Sewell highlighted four specific powers that would be delegated to this new legislative body, namely, religion, commerce, taxation for general purposes of the union, and defence.<sup>65</sup> Though defence was listed fourth in the specific powers of union, to this point in the pamphlet it served as the primary justification for union, demonstrating its significance to a prominent settler political figure, as well as the genuine fear of invasion

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<sup>63</sup> Robinson and Sewell, *Plan*, 8.

<sup>64</sup> McNairn’s analysis in *Capacity to Judge* placed Upper Canada within an Enlightenment framework, and the language of partiality and interest draws on the traditions of British Political culture, political theorists, and even the arguments employed by emerging Americans in the build-up to the American revolution. For more on the American context see: Bernard Bailyn, *Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1992).

<sup>65</sup> Robinson and Sewell, *Plan for a General Union*, 12.

felt in the Canadas.<sup>66</sup> This emphasis on the importance of defence illustrates one of the biggest fears of the colonial elites, the potential of American annexation and the loss of the British connection.<sup>67</sup> Reducing the militia code from five separate entities to one unified militia under the control of the Governor General would allow the militia to be “effectively wielded for putting down domestic insurrection or repelling foreign invasion,” which Sewell and Robinson argued was a sufficient reason alone for a union to take place.<sup>68</sup> The need for a functional force to suppress domestic dissent and repel foreign invasion was foundational to the creation of a British North American union. Settler politicians, having identified the connection with Britain as the source of Upper Canadian prosperity, supported a strengthened and continued relationship, which was the product of both the perceived economic advantages and an ideological attachment based on loyalty and paternalism.<sup>69</sup> Preserving stability and demonstrating a commitment to imperial defence is best understood as a part of a continuous display of loyalty and attachment to the crown intended to secure the continued commitment of the empire to the development of Upper Canada.

In addition to demonstrating the different ways that this scheme would contribute to and further the interests of empire, the extract of Sewell’s paper included by Robinson outlined how power would remain vested in imperial authority. The new legislative union was designed to leave the legislatures of the five separate provinces unchanged,

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<sup>66</sup> Though another war with the United States did not occur, contemporaries lived with rumors and fear of American invasion, which occupied a significant part of government consciousness in the immediate aftermath of the War of 1812, as Carol Wilton outlines in the introduction of *Popular Politics*, and Jane Errington in *The Lion, the Eagle, and Upper Canada: A Developing Colonial Ideology*. References to the United States in colonial newspapers touched on the prospect of war, but also on trade and communication – much of Upper Canada’s news arrived via New York rather than Quebec, a pattern noted by Errington.

<sup>67</sup> Robinson and Sewell, *Plan for a General Union*, 7.

<sup>68</sup> Robinson and Sewell, *Plan for A General Union*, 9.

<sup>69</sup> Carol Wilton, *Popular Politics*, 8.



with the Lieutenant Governor and executive council for each province remaining in place.<sup>70</sup> These provincial bodies would only be able to legislate on matters that concerned their respective administrative region. The “United Provincial Parliament” meanwhile would be composed of delegations of members selected by their respective houses, and have powers in all matters of “general interest to the provinces, and to the mother country.”<sup>71</sup> Seats in this system devised by Sewell would be equally distributed among the provinces irrespective of population. Sewell’s scheme was neither purely a legislative union or federative union, but provides much of the framework that Robinson would use in his proposal to the Colonial Office.

With the introduction provided by Sewell concluded, Robinson began his proposal with a survey of the settler reaction to the proposed *Bill of Union*, the breadth of which this chapter has attempted to capture. Commenting on the public prints of the Canadas, he noted that “the two provinces have been, and continue to be, much agitated with the discussion of the measure”, both for and against.<sup>72</sup> Despite this, he was certain the Upper Canadian assembly could be counted on to support the measure, provided of course, that some of its more problematic elements were revised.<sup>73</sup> Ultimately, however, Robinson argued the *Bill of Union* would exacerbate rather than solve the problems it sought to address, and the most effective remedy was the union of the British North American provinces into “one grand confederacy.”<sup>74</sup> Though involving the rejection of a

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<sup>70</sup> Robinson and Sewell, *Plan for a General Union*, 11.

<sup>71</sup> *Ibid.*, 11.

<sup>72</sup> Robinson, *Plan for A General Union*, 15.

<sup>73</sup> *Ibid.*, 15. One of the major objections was the imposition of a £500.00 property requirement, believing that it would remove the free choice of the electors. Though Robinson, and many others supported the concept of property requirements, this new restriction was seen as a limit on their liberty. *The Gleaner and Niagara Newspaper*.

<sup>74</sup> Robinson, *Plan for A General Union*, 23.

plan from the Colonial Office, Robinson's plan for a general union sought to resolve the issue by addressing the same perceived points of tension and maladministration of the colonies identified by the framers of the union measure. Additionally, it was not intended as an abstract solution, but as a practical suggestion to overcome opposition to the *Bill of Union* being voiced in both Canadas.

Reorganizing the British North American colonies in this way was a part of a vision of constructing the "United Provinces of British North America" or a kingdom of Canada.<sup>75</sup> This proposed reorganization was built not upon a desire for independence, but to build a community based on idealized understandings of Britishness.<sup>76</sup> Though not employing the language of dominion, this proposed reorganization would create a legislative with powers in taxation, regulation, interprovincial trade, defence, and preventing sedition that closely resembled the powers the settler dominion that emerged later in the nineteenth century would possess. The language of a new kingdom demonstrates the commitment to a project of governance that ensured the continued connection to Britain, and revealed Robinson's ambitions for Empire.<sup>77</sup> In this vision, the new constitution would elevate the Canadas into an important and truly integral part of Empire. Ideas of importance and integrality to empire were central to the Union debates, both for the *Bill of Union* and to Robinson's counter-proposal. These sentiments are found throughout the printed documents from the 1820s, including the journals from the Legislative Council and House of Assembly. Sir Peregrine Maitland, in his 1825 speech

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<sup>75</sup> Ibid., 24.

<sup>76</sup> Cecilia Morgan, *Building Better Britains*, 153; Nancy Christie, "'The Plague of Servants': Female Household Labour and the Making of Classes in Upper Canada" in *Transatlantic Subjects: Idea, Institutions, and Social Experience in Post-Revolutionary British North America* (Montreal: McGill-Queen's University Press, 2008), 105.

<sup>77</sup> Robinson, *Plan for A General Union*, 27.

from the throne, highlighted these themes, referring to Upper Canada as an “integral part of the British Empire” and mentioning several measures taken by the “parent state” to incorporate the British North American provinces as an valuable and constituent component of empire.<sup>78</sup> These sentiments were often repeated by settler politicians, including William Campbell, the Chief Justice who preceded John Beverly Robinson, who sought to refute the idea that geography or lack of direct contact should prevent Upper Canada from participating in Empire.<sup>79</sup> Robinson’s scheme reflected the same ideas, as he suggested the inclusion of representatives from the colonies in the imperial Parliament in order to make them feel like contributing components rather than as estranged dependencies.<sup>80</sup> Ideas of participatory citizenship in Empire and early settler nationalism are inextricably linked, rooted in romantic ideals of British social and political institutions.

Given the importance of the connection to Britain and convinced there could be no objections to such a reasonable design, Robinson believed his scheme would effectively dispel any anti-union sentiments. In making his argument about the effectiveness of his scheme he listed other “greater benefits” and in doing so, reveals the

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<sup>78</sup> *Journal of the Legislative Council, 2<sup>nd</sup> Session of the 9<sup>th</sup> Provincial Parliament of Upper Canada*, 4,8. Statements such as these are located throughout speeches to the Legislative Council and House of Assembly in the 1820s, as demonstrated through their journals, and reprints in the colonial press. Though some were standard formal expressions, their ubiquity demonstrates how loyalty was expressed in a colonial setting. Additionally, the language highlights the importance of British and English ideas and attachments to settler political culture and debate.

<sup>79</sup> Todd, Alfred, and Upper Canada. Legislature. House of Assembly. *General Index to the Journals of the House of Assembly of the Late Province of Upper Canada commencing with the First Session of the Ninth Provincial Parliament (1825), and Ending with the Fifth Session of the Thirteenth Parliament (1839-40), (being the Last Session before the Union of the Canadas)* (Montreal: Lovell and Gibson, 1848), 102. *The Gleaner and Niagara Newspaper* February 22<sup>nd</sup>, 1823, reprinted a letter from the *Quebec Gazette* featuring language that reflected the same sentiment of the United Canadas becoming “on the most valuable appendage of the British Empire.” Union would benefit not just the colonies, but the interests of the broader British empire.

<sup>80</sup> Robinson, *Plan for a General Union*, 43.

foundations of Canadian settler nationalism. One of the main benefits was the idea that the four continental colonies, the Canadas, New Brunswick, and Nova Scotia, occupied quality land that would be best developed by drawing on collective resources, in turn resulting in increased prosperity and strength of the colonies.<sup>81</sup> Additionally, he argued it was “unquestionable that a proper spirit and feeling pervades the whole, fortified by a just pride” resulting from participation in the War of 1812. This sense of pride, which he called spirit and feeling could be “strengthened and preserved by making the provinces a part of the ‘United Kingdom’ bringing near to the true nature and spirit of monarchical institutions.”<sup>82</sup> The proper spirit and just pride were based on active involvement in the British imperial project, built on participation in an imperial war, and the enjoyment of British institutions. Notably, Robinson claimed these sentiments existed across British North America and would form the basis for a national character of a newly established Kingdom. These themes would reappear in a second pamphlet written by Robinson on the subject. Ideas of pride, national character, and an attachment to British institutions were central to this vision of union and reveals central components of Upper Canada political culture.<sup>83</sup>

Recognizing the potential danger in describing a national spirit and character, even one as proper and just as British North Americans were said to possess, Robinson briefly turned his attention to debunking the idea that a united legislature would seek independence or join the United States. Acknowledging that “the colonies could act in concert against the Crown,” Robinson pointed out the repeated declarations and

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<sup>81</sup> Robinson, *Plan for a General Union*, 31.

<sup>82</sup> *Ibid.*, 32.

<sup>83</sup> Robinson, *A Letter to Right Hon. Lord Bathurst on the Policy of Uniting the British North-American Colonies*, (London: W. Clowes, Northumberland-Court, 1824), 51.

demonstrations of loyalty by British North Americans.<sup>84</sup> Recognizing that loyalty and Britishness were insufficient for preventing a rebellion of the thirteen American colonies, Robinson based his argument not just on past loyalty and attachment to Britain, but on colonial interests and settler liberty. Firstly, Canada was far more dependent on trade and the empire than the United States had been, ensuring their continued attachment. Secondly, Robinson argued, a severed connection with Britain would leave the colonies vulnerable to the United States, and in the case that they were incorporated into the United States they would be less free and their interests neglected.<sup>85</sup> Settlers were well aware of this, and this plan was intended to strengthen their position within the empire and to secure the stability in the colonies that the Colonial Office had hoped the *Bill of Union* would restore.

A second letter from Robinson to Lord Bathurst, also printed as a pamphlet, expanded on the framework outlined in his initial plan of union by providing an explanation of its potential usefulness to empire. This pamphlet demonstrates a great deal about the foundations of early iterations of settler nationalism in Upper Canada, particularly visions of constructing a new British kingdom in northern North America. Expanding on the same themes of the first pamphlet, this one focused on the benefits not just to the Canadas but to empire as a whole. Robinson declared himself to be writing “not as a Canadian impressed with its importance, but as a British subject.”<sup>86</sup> One of several performative expressions of Britishness and deference in this second pamphlet, it is important for understanding settler nationalism as distinct from nationalism, and it

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<sup>84</sup> Robinson, *Plan for a General Union* 34.

<sup>85</sup>Ibid., 48.

<sup>86</sup> Robinson *Letter to Bathurst*, 40.

highlighted the significance of British identity to settlers. Distancing himself from reformers and secessionists, Robinson demonstrated his commitment to the success of the imperial state, claiming to be focusing on the interests of Empire, not just the partial interests of one or both of the Canadas.<sup>87</sup> Self-identifying as loyal to the crown and creating distance from opposition, and especially from revolutionary figures and their arguments, was a commonly practiced political tool employed by both reformers and government supporters.

Robinson's vision of union, of a settler dominion in British North America, relied on three components of settler mythology and lore that would remain central to Upper Canadian and eventually Canadian politics. Firstly, he imagined the geographic space as an unoccupied and unused wilderness to be transformed with the possibility of expansion to the northwest.<sup>88</sup> Completely ignoring the presence of Indigenous nations, Robinson appears to accept the idea of North America as *terra nullius*, an unoccupied, unclaimed space for constant expansion and growth. The idea of subduing the wilderness and a "frontier spirit" was an important part of settler identity in the Canadas that reappeared in expressions of settler nationalism throughout the nineteenth century.<sup>89</sup> Secondly, he saw the conquest of New France in the eighteenth century was an achievement of greater value and future importance than contemporaries had realized.<sup>90</sup> Thirdly, he held that Upper Canadians were content with the system established in the *Constitutional Act, 1791*, which separated the two colonies and provided for Upper Canada a constitution and code of laws that were "in all respects English," and desired no changes that would

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<sup>87</sup> Ibid., 2.

<sup>88</sup> Ibid., 7, 51.

<sup>89</sup> Morgan, *Building Better Britains*, 51, 82; Errington, *A Developing Colonial Ideology*, 8.

<sup>90</sup> Robinson, *Letter to Bathurst*, 5.

jeopardize this arrangement.<sup>91</sup> The specification of English rather than British is an important distinction, and suggests a connection not with Britain in its entirety, but to an identity rooted in one central constituent component of empire. These three ideas were fundamental to the manifestation of settler nationalism in early imaginings of a nation in British North America.

One case study of loyalty and union is Robinson's references to the American Revolution and a plan presented at the Albany Conference of 1754. Acknowledging some similarities between his vision and the plan presented earlier by Benjamin Franklin, one of the most well-known of the American revolutionaries, Robinson seeks to distance his own plan from the plans of a pro-independence American.<sup>92</sup> Rather than rejecting any American influence, Robinson instead credited Governor Thomas Hutchinson with the original plan for the union of the British provinces of British North America. Hutchinson was the archetypical loyalist, who opposed independence for the American colonies and was vocal with his preference for Britain.<sup>93</sup> The loyalization of union proposals demonstrates the careful navigation of colonial space, even by an influential member of the colonial administration. This illustrates an early expression of settler nationalism in which the Canadas remain firmly attached to the imperial state, developing a sense of common colonial identity through a connection to the British Empire, while

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<sup>91</sup> Robinson, *Letter to Bathurst*, 5; *Kingston Chronicle*, November 1<sup>st</sup>, 1822; *The Gleaner and Niagara Newspaper*, January 4<sup>th</sup>, 1822.

<sup>92</sup> Benedict Anderson. *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991), 61. Anderson refers to Benjamin Franklin as a prominent figure associated with what he called creole nationalism, a term similar to the settler nationalism being investigated in this thesis. The different terminology is the product of different historiographies, and contexts. Additionally, creole nationalism appears to have included a desire to separate, whereas the settler nationalism explored in this thesis is dependent on a continued connection to empire.

<sup>93</sup> Robinson, *Letter to Bathurst*, 41. See Bernard Bailyn. *The Ordeal of Thomas Hutchinson* for more on this particular loyalist, and loyalism in the American revolution.

increasing the autonomy and power of the emerging settler state. Another component of Robinson's plan was for the united colonies to be granted a seat in Parliament, which would provide a stable and durable connection to empire.<sup>94</sup>

Ultimately, Robinson's vision was informed both by a firm sense of settler nationalism and a commitment to the British imperial project in northern North America. As demonstrated earlier in this chapter, Robinson believed in an emerging national character based on a reverence for the parent state, and his plan for union was intended to foster this connection. The epitome of his vision for British North America was the eventual transfer of the seat of empire, should it one day become necessary for the purposes of trade and continued prosperity of the empire.<sup>95</sup> In making his proposal for the construction of a new kingdom in North America, Robinson drew on the same language of loyalty, prosperity, and Britishness as the *Bill of Union* and those responding to it in the colonial presses. Offered as a way to overcome settler opposition, Robinson's plan never materialized as a legitimate option to the Colonial Office, nor did it capture the imagination of settlers outside of a highly limited audience. By the end of 1824, the moment for union had passed, as Parliament became occupied with other questions and the *Canada Trade Act* combined with increased funding for public works temporarily placated Upper Canadians. John Beverley Robinson remained as the Attorney General of Upper Canada, and by the time the next round of serious union considerations took place he was the Chief Justice and a member of the Legislative Council.

Strachan's *Observations* and both of Robinson's plans were critiqued by supporters of the *Bill of Union*, including James Stuart, a Lower Canadian who carried

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<sup>94</sup> Robinson, *Letter to Bathurst*, 44.

<sup>95</sup> Robinson, *Letter to Bathurst*, 49.



petitions in favour of union from both Canadas. Stuart argued against Robinson's plan of a general union, critiquing its ambition, impracticality, and failure to address the problems the *Bill of Union* sought to resolve. He began by summarizing the powers intended for the general legislature, to set taxes for all British North America, to declare war and negotiate treaties with the "Indian nations", and to promote new settlements, Stuart argued that Robinson's plan intruded on the powers of the imperial state.<sup>96</sup> Whereas Robinson's plan would secure greater autonomy for the British North American provinces, a hallmark of settler nationalism, *The Bill of Union* maintained the broader place of the settler colonies within existing structures of imperial governances. Robinson's efforts to frame the proposal were also critiqued by Stuart, who called attention to Benjamin Franklin's 1754 plan and dismissed Robinson's title of a "Legislative Union" as unclear and misleading, as the proposed General Union was "federative."<sup>97</sup> From these two criticisms, Stuart assailed the concept of a general union, and while doing so, provided a compelling case in support of the *Bill of Union*, making many of the same arguments seen in the Upper Canadian press.

Addressing the structural weaknesses of a general union of the British North American colonies, Stuart articulated the potential benefits of the *Bill of Union* by comparison. Firstly, Prince Edward Island and Newfoundland were unsuitable for admission into the scheme as independent members because they were lacking

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<sup>96</sup> James Stuart. *Remarks on 'A Plan for a General Union of the British Provinces in North America* (London: W. Clowes Northumberland-Court, 1824), 3; James Stuart, *Letter to His Majesty's Undersecretary of the State, Respecting a Plan for a General Union of the British Provinces and on the Subject of the Proposed Union of the Canadas* (London: W. Clowes Northumberland-Court, 1824), 3.

<sup>97</sup> Stuart, *Remarks on a Plan*, 3, 4. "Federative", used by Stuart in this context appears to be pejorative, rather than just a way to describe a political structure.

representative governments and the proper British character and institutions.<sup>98</sup>

Institutions and identity were closely linked and the lack of a representative government was taken by leading political figures in the Canadas to mean that the settler societies in Newfoundland and Prince Edward Island were neither British nor prepared enough to be members of a broader British North American society. Secondly, though trade between the Canadas was flourishing, the maritime provinces and the Canadas had a limited exchange of resources, rendering union, especially the large federative scheme proposed by Robinson, to be unnecessary.<sup>99</sup> Above all, the proposed general union would fail to improve the defensive capabilities of British North America, which was at the centre of Robinson's proposal and was a major concern for settler politicians throughout the nineteenth century.<sup>100</sup> The *Bill of Union*, by contrast, was presented as capable of resolving the colonies' problems, rather than simply replicating them in a larger, less efficient system of government. Stuart's support for uniting the Canadas is framed in the language of loyalty and support for Empire, echoing many of the sentiments explored earlier in the chapter. Driving his support for union was a belief that it would give the Canadas an increased sense of importance while encouraging a stronger connection to Britain, and growing an aversion to the United States.<sup>101</sup> By giving the Canadas a free constitution, imperial officials would ensure there was no reason to envy American liberties.<sup>102</sup> Ultimately, Stuart argues that a general union might one day be practical and beneficial, but for the present, grand schemes of union were premature and did not

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<sup>98</sup> Stuart, *Remarks on a Plan*, 6. Jerry Bannister, "The Campaign for Representative Government in Newfoundland," *Journal of the Canadian Historical Association* 5, no. 1, 1994.

<sup>99</sup> *Ibid.*, 7.

<sup>100</sup> *Ibid.*, 9.

<sup>101</sup> *Ibid.*, 18.

<sup>102</sup> Stuart "Letter to the Undersecretary," 8. *Colonial Advocate*, May 20<sup>th</sup>, 1824.

supersede the need for a union of the Canadas. Touching on themes of the family, settler sovereignty, and nascent Canadian settler nationalism, Stuart's pamphlet draws on the same language and argumentation as Upper Canadian supporters of Union.

By the end of 1824, the *Bill of Union* was abandoned by the Tory government, though it was not until 1828 that a select committee formally scrapped the proposal. Debates of union in the 1820s coincided with a growing public sphere in Upper Canada and were shaped by settlers' negotiation of an emerging identity that combined American and British influences.<sup>103</sup> Despite drawing on this dual identity, there was a concerted effort to promote the British character of the colony. Concurrent to these debates of union was an ongoing discussion of citizenship, with an American-born member of the opposition repeatedly expelled from the assembly.<sup>104</sup> Arguments on all sides of the union question were shrouded in the language of loyalty and deference, and repeatedly referenced a British identity that conflated Britishness and Englishness. Common in settler responses was a vision of continued connection to Britain, growing more important and integral to the empire, and the facilitation of expansion to the north and west. These three ideas were central tenets of Upper Canadians' early expressions of settler nationalism, and they continued to dominate imaginings of union and the development of settler societies in British North America.

Plans of a general union of British North America received considerably less attention in the colonial press, but were an integral part of union debates in the settler

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<sup>103</sup> Jane Errington, *A Developing Colonial Ideology*.

<sup>104</sup> Carol Wilton, *Popular Politics*, 39. Jane Errington, *A Developing Colonial Ideology*, 171-184. See also: Paul Romney, 'Reinventing Upper Canada: American Immigrants, Upper Canadian History, English Law, and the Alien Question,' in Roger Hall, William Westfall, and Laurel Sefton MacDowell, eds., *Patterns of the Past: Interpreting Ontario's History* (Toronto: Dundurn Press, 1988), 78-107.

public sphere. Settlers across the spectrum of responses to the proposed *Bill of Union* drew on similar language, rooted in loyalty to the crown and the enjoyment of British liberties. The relationship with empire was imagined, at least to some degree, as reciprocal one, whereby both the imperial and settler states benefitted from the consolidation of power and better integration of Upper Canada into the imperial system. Despite the emphasis on mutual benefit, the language of the family, dependence, and deference demonstrates the limits of the reciprocity of the imperial relationship. However, this did not prevent settler politicians from imagining the construction of a new political community in British North America, occupying a political and geographic space that could serve as a check on the American empire, while remaining a component of the British one. Participation in British institutions and the enjoyment of the British Constitution and liberties were central to nineteenth-century Upper Canadian politics and foundational to its emerging settler nationalism. Imperial intervention was not resented, as even opponents of the measure framed their disagreement in the language of gratitude, essentially thanking imperial Parliament for even thinking of them, while simultaneously informing them of what they considered to be the true local circumstances. Many of the issues driving the debate in the settler colonies in the 1820s were repeated in future considerations of union, revealing the intellectual roots of confederation considerably deeper than the three years preceding the *British North America Act*.

**Chapter Three**  
**A Vision of Stability:**  
**Rebellion and Union in the Canadas, 1837-1839**

The union of the Canadas remained unrealized following the abandonment of the 1822 *Bill of Union*, as the measure lacked significant momentum to overcome the inertia that typically surrounds constitutional reform. The Rebellion of 1837/8 in Upper and Lower Canada returned the issue to the stage of public debate, with many actors reprising their former roles.<sup>1</sup> The British government, once again seeking an inexpensive and expedient solution to what was perceived as a crisis in the Canadas, appointed John George Lambton, the Earl of Durham, to serve as Governor General of British North America. Following his brief tenure in the Canadas, Lord Durham wrote what would become one of the most notorious reports on governance in British North America. This report was based on three central recommendations for the administration of the colonial government: the assimilation of the French population; the implementation of responsible government; and a form of union of existing provinces. The first two components have been studied extensively, while the third has received less attention and will be the focus of this chapter. Durham recommended an immediate legislative union of the Canadas, with a view to the eventual union of the British North American provinces, either federal or legislative. These suggestions produced debates among Britons in Upper Canada and Britain that drew on the same themes discussed in Chapter Two, particularly contested notions of Britishness and ongoing negotiations of loyalty and liberty. Despite the

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<sup>1</sup> John Beverley Robinson and the colonial “Tories” continue to oppose the union of the Canadas. The Government of Great Britain and the Colonial Office again sought to ensure a stable system of government for the colonies. Some new actors are involved: Great Britain had a new monarch, Queen Victoria, and a Whig ministry was in power in London, but as many settlers point out, it made little difference to practical colonial administration whether if it was a Whig or Tory ministry.

continuity in themes, the Durham debates reflected a changing understanding of settler identity and the continued development of settler nationalism.

This chapter will first examine the broader context of the Durham Report, situating it in the debates of imperial governance, to which it will return at the end of the chapter. It will then explore initial settler reactions to Rebellion in the context of Durham's impending arrival and governorship, which helped to inform the Report. These reactions provide insights into settler discussions of the impact of the Rebellion, which have important implications for understanding Upper Canadian political culture and identity. Next, it will engage in a textual analysis of selected portions of the Durham Report, specifically those relating to Upper Canada and Durham's recommendations. The chapter's focus will then return to Upper Canada, focusing on settler participation in Durham debates, and exploring how, though their contribution addressed Upper Canadian issues, they saw themselves as participants in debates of imperial governance. These debates focused on, among other things, responsible government, expression of identity, and the British constitution. Finally, this chapter considers a pamphlet written by John Beverley Robinson, then the Chief Justice of Upper Canada, to explore different visions of restoring stability to the colony. Through an investigation of the Durham Report, and the responses to it, this chapter demonstrates continuity in union debates and in the ongoing formation of settler identity across the 1820s and 1830s.

The Durham Report coincided with debates on imperial governance that extended far beyond the Canadas and had profound implications for the governance of Britain's colonies throughout the nineteenth century. Similar to the union debates of the 1820s, Parliament had recently experienced its own round of reform discussions, through the

*Reform Bill* of 1832.<sup>2</sup> Additionally, the recent experience of colonial reform and rebellion helped to shape the outlook of imperial politicians, and were events settlers understood and drew on when formulating their own arguments.<sup>3</sup> Lord Durham was involved with the drafting of the *Reform Bill* and through his experience in Parliament, had earned the nickname “Radical Jack,” a moniker not necessarily meant as a compliment, especially when employed in the colonial setting.<sup>4</sup> Durham was known for promoting increased power for the people in Britain, but this was, as Ajzenstat points out, not the case in the colonies. She argued that balance was the driving force in Durham’s political thought.<sup>5</sup> At the time of the Rebellion, and the subsequent debates, Queen Victoria was newly crowned, and a Whig ministry, led by Lord Melbourne, formed the government in Westminster. The position of Secretary of State for the Colonies rotated between Lord Glenelg, Lord Normanby, and Lord John Russell, the last of which was the colonial secretary tasked with creating a policy for the Canadas.

The Rebellion in the Canadas is often identified either as a break in Canadian history or as a part of Reformers’ battle for responsible government.<sup>6</sup> This has inadvertently contributed to the separation of studies of liberty and loyalty in the colony,

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<sup>2</sup> Miles Taylor, “Empire and Parliamentary Reform: The 1832 Act Revisited” in *Rethinking the Age of Reform Britain 1780-1850* eds. Arthur Burns and Joanna Innes (Cambridge: Cambridge University Press, 2003).

<sup>3</sup> *St. Catherine’s Journal*; Janet Ajzenstat, *The Political Thought of Lord Durham* (Montreal: McGill-Queens University Press, 1988), 53; Robert Travers, “Contested Despotism: Problems of Liberty in British India” in *Exclusionary Empire*, ed. Jack Greene (Cambridge: Cambridge University Press, 2010), 214.

<sup>4</sup> Supporters of the colonial administration often referred to him as “prejudiced”, and a “party man”

<sup>5</sup> Ajzenstat, *The Political Thought of Lord Durham*. See Jeff McNairn’s *Capacity to Judge*, and especially Chapter 1 for a discussion of the “Very Image and Transcript of the British Constitution”, and the idea of balance within a mixed monarchy.

<sup>6</sup> Ian McKay, “CHR Forum: The Liberal Order Framework,” Reprinted in *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, eds. Michel Ducharme and Jean-François Constant (Toronto: University of Toronto Press, 2010), 632; Allan Greer, “1837-38: Rebellion Reconsidered,” *Canadian Historical Review* 26 no.1 (1995): 1-18.

or promoted liberty as the central debate among settlers.<sup>7</sup> The focus on liberty has helped to demonstrate the intellectual heterogeneity of Upper Canada, and challenged the idea of it as a distinctly conservative, illiberal space. By considering liberty as the central component of settler thought other elements that contributed to Upper Canadian political culture have been obscured. Such an approach does not easily allow for investigating the connection between liberty and loyalty; nor does it account for negotiations of identity and the calculations made by both settler and imperial politicians. Through a discussion of ideas of union in the *Durham Report*, and responses to it, this chapter seeks to challenge this interpretation, and demonstrate how the Rebellion, though an important event in Upper Canadian history, produced continuity rather than change in settler identity and the public sphere. Building on the revisionist interpretation of the *Durham Report* of Janet Ajzenstat, this chapter explores ideas of liberalism and consolidation in governance, using the concept of a growing settler nationalism to explore how union debates in Upper Canada reflected the development of settler identity, and emerging notions of nationality.<sup>8</sup>

Immediate responses to the Rebellion occurred on both sides of the Atlantic, with settlers in Upper Canada going to great lengths to demonstrate their continued loyalty to empire and their affection for British institutions and liberties. Settler attempts to identify and explain the causes of the Rebellion demonstrated the developing identity of Upper Canadians and the importance of the interplay of loyalty and liberty in their political

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<sup>7</sup> Michel Ducharme, *The Idea of Liberty in Canada during the Age of Atlantic Revolutions, 1776-1838* (Montreal: McGill-Queens University Press), 19; Jeffrey L. McNairn, "As the Tsunami of Histories of Atlantic and Liberal Revolutions Wash up in Upper Canada: Worries from a Colonial Shore – Part One." *History Compass* 14, no. 9 (2016): 407-17.

<sup>8</sup> Janet Ajzenstat, *The Political Thought of Lord Durham* (Montreal: McGill-Queen's University Press, 1988).



thought. These immediate attempts to explain the Rebellion focused on downplaying its significance, and contributed to historical narratives emphasizing Upper Canadian loyalty as a combination of deference and conservatism.<sup>9</sup> However, this traditional interpretation does not accurately capture the sentiments of the settlers and fails to account for the use of the language of loyalty as a performance, a part of settlers' active construction and negotiation of their British identities.<sup>10</sup> The ways in which settlers discussed the failed Rebellion demonstrates the importance of the British connection both practically and sentimentally. In a letter to the new Lieutenant-Governor, John Powell, the Mayor of Toronto expressed "feelings of unfeigned regret" about the efforts of the "disaffected and ungrateful inhabitants of this province" to "overthrow the unrivalled constitution under which we have the happiness to live."<sup>11</sup> In this address Powell sought to indicate the limited support of the Rebellion, by attributing it to only a few people who lived in the province, distinguishing them from the "greater number of citizens" who misguidedly joined their efforts. This attempt to downplay the involvement of citizens and to designate active participants as external agitators is an example of Upper Canadian attempts to demonstrate loyalty to the imperial state.

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<sup>9</sup> Janet Ajzenstat, *The Once and Future Canadian Democracy*, 6. Ajzenstat refers to the works of S.F. Wise, and other historians of Upper Canada who portrayed Upper Canada as a conservative, unenlightened polity. Philip Girard, "Liberty, Order, and Pluralism: The Canadian Experience" in *Exclusionary Empire* ed. Jack Greene, 162; Katherine Fierlbeck, *Political Thought in Canada: An Intellectual History* (Toronto: Broadview Press, 2006), 49.

<sup>10</sup> Gerald Craig, *Upper Canada: The Formative Years*, 1963. Reprint. (Don Mills: Oxford University Press, 2013); Jeffrey L. McNairn *Capacity to Judge: Deliberative Democracy in Upper Canada, 1791-1854* (Toronto: University of Toronto Press, 2000); Jerry Bannister, "Canada as Counter-Revolution: The Loyalist Order Framework in Canadian History 1750-1840" in *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, ed. Michel Ducharme and Jean-François Constant (Toronto: University of Toronto Press, 2010); see also Michael Eamon, *Imprinting Britain: Newspaper, Sociability, and the shaping of British North America* (Montreal: McGill-Queens University Press, 2015), for a discussion of the fluidity of Britishness and British identity in the 18<sup>th</sup> Century.

<sup>11</sup> *St. Catherines Journal*, April 12<sup>th</sup>, 1838. Powell was a member of the Toronto Family Compact, and was an instrumental part of the violent suppression of the Rebellion in Toronto.

One prominent element of settler narratives of the Rebellion was the continued privileging of Englishness rather than Britishness. As was discussed in Chapter Two, and will be argued throughout this chapter, Englishness and Britishness were often used interchangeably, with ideal laws, institutions, and character being not an equal combination of Britain's constituent parts, but rather emanating outwards from England. A contributor, writing under the pseudonym Hibernicus, claimed "no nation on earth, at this moment holds such a high, and distinguished station as England. She is the best and ablest defender of rational liberty."<sup>12</sup> Liberty and reason were closely linked, with an implicit contrast to republican or democratic liberties, and it was specifically England, not Britain that defended liberty. This contributor, likely an Irish settler himself given the choice of pen name, also emphasized the "Loyal and Patriotick Irishmen," and described the "wild and unnatural rebellion that raged in fiendish spirit in the colonies, and threatened their separation from the mother country" as a perfect test for the loyalty of the Irishmen.<sup>13</sup> By not participating in the Rebellion or by helping with its suppression Irish settlers had demonstrated, in Hibernicus' view, that there was a "strong and indissoluble Union among them to support the British Constitution."<sup>14</sup> The need for the demonstration of loyalty specifically of settlers from Ireland was likely in response to a distrust of them produced by ongoing acts of resistance and rebellion against the Crown in Ireland, illustrating the transatlantic implications of identity through the lens of loyalty and rebellion.<sup>15</sup>

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<sup>12</sup> *St. Catherines Journal* April 12, 1838.

<sup>13</sup> *St. Catherines Journal*. April 19<sup>th</sup>, 1838.

<sup>14</sup> *Ibid.*

<sup>15</sup> Allan Blackstock, "Papineau-O'Connell instruments: Irish Loyatism and the Transnational Dimensions of the 1837 Rebellions in Upper and Lower Canada," in *The Loyal Atlantic: Remaking the British Atlantic in the Revolutionary Era* eds. Jerry Bannister and Liam Riordan (Toronto: University of Toronto Press, 2011).

This idea of Englishness reappears throughout these debates. A reprint from *Quebec Gazette*, accompanying one of the first mentions of Lord Durham, features an endorsement of his ability to “Anglify the country as it ought be Anglified.”<sup>16</sup> This statement demonstrates two important elements of settler negotiations of Britishness. Firstly, Britishness and Englishness were closely connected, if not synonymous, and secondly, there was a specific socioeconomic class representing ideal Englishness.<sup>17</sup> These ideas helped to shape colonial norms and expectations; it directed emigration promoters, who sought to supply for Upper Canada not just new British settlers, but those belonging to the appropriate classes, bringing with them proper English values. Upper Canadian preference for Englishness over broader understandings of Britishness, was not a neutral description that informed policy-making, but connected to an expression of settler nationalism that accompanied celebrating the defeat of Rebellion. One such expression in the settler public sphere, “the cross of St. George floats in proud independence on the breeze, and when the loyalty of Canadians has proved itself equal to any emergency, we should bury the tomahawk, with all its horrifying recollections, in the grave of oblivion.”<sup>18</sup> Rather than referring to the British flag, these Reformers opted for “the Cross of St. George,” the English flag, indicating the privileged position of Englishness within the Upper Canadian understanding of Britishness. This newspaper describes the Rebellion as a test of loyalty for Canadians, successfully completed, and the rebellious acts should be permanently forgotten. This language was echoed by many

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<sup>16</sup> *St. Catherines Journal*, May 10<sup>th</sup>, 1838. Benedict Anderson discusses the important of policies of Anglicization in British imperial policy in *Imagined Communities*, 91-92.

<sup>17</sup> Cecilia Morgan. *Building Better Britains*, xxvii; Nancy Christie, “The Plague of Servants” in *Transatlantic Subjects*, 93.

<sup>18</sup> *St. Catherines Journal*, June 1<sup>st</sup>, 1838.

settlers and imperial officials in the aftermath of the Rebellion as they sought to emphasize the braveness and loyalty of what they claimed was the vast majority of Upper Canadians.<sup>19</sup> The encouragement of forgetting of Rebellion and remembering the loyal acts of inhabitants of Upper Canada demonstrates just how important the idea of loyalty was in the settler imagination. Whether loyalty was meant to ensure their material prosperity or for less tangible reasons such as an emerging national pride, it was a real and active force in the lives of Upper Canadians.

The themes of active forgetting and applying the label of political agitation would be repeated throughout the Durham debates as leading conservatives claimed that “to renew political discussions on questions that have heretofore produced disastrous results... must... eventually lead to dissensions that can be followed by no other consequences than the revival of past disagreements best forgotten.”<sup>20</sup> Reformers were upsetting the *status quo* in what conservatives considered unacceptable and unconstitutional ways that weakened the effectiveness of the government of the colony. Instead of repeating what they considered decided issues it would be better to simply agree to forget them altogether. For Reformers, the issues were far from settled and, as Carol Wilton argues, the public sphere allowed them to attempt to direct public opinion and play a major part in shaping the post-Rebellion settlement.<sup>21</sup> Additionally, as will be seen in later in this chapter, political arguments invoked the memory of the Rebellion with Reformers and Tories both attempting to blame their opponents for its outbreak.

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<sup>19</sup> This was a tactic of both government and reform newspapers, and among the favourite arguments of John Beverley Robinson, Robert Baldwin, Egerton Ryerson, and the various Lieutenant Governors and Governors General throughout the 1820s and 1830s.

<sup>20</sup> *Bytown Gazette*, November 7<sup>th</sup>, 1839; *The Church*, August 24<sup>th</sup>, 1839; *Bytown Gazette*, September 20<sup>th</sup>, October 25<sup>th</sup>, 1839 quoted in McNairn, *Capacity to Judge*, 207.

<sup>21</sup> Carol Wilton, *Popular Politics*, 201

Reformers blamed the maladministration of Toryism, and Conservatives blamed ambitious, self-serving and Republican leaders, especially William Lyon Mackenzie.<sup>22</sup>

The identity of participants shaped how their expressions of loyalty were discussed and measured in the colonial public sphere. Indigenous people, racialized settlers, and white settlers expressed and experienced loyalty and liberty differently, and settlers, when discussing the Rebellion in the public sphere, tended to present these groups as united in loyalty but with distinct and separate motivations. Though Indigenous people were often excluded from settler debates, they featured prominently, if misguidedly, in the narrative of departing Lieutenant Governor Sir Francis Bond-Head. In his final speech to the House of Assembly, Bond-Head claimed “the mild aborigines of this continent, who live among us uninjured and respected” took up arms, as “free-born defenders of their virgin soil” from American invaders, seeking to maintain “the wampum belt sacredly connecting them to Great Britain.”<sup>23</sup> This combines three key elements of imperial and settler thought. Firstly, Indigenous people were “mild,” and “uninjured,” an image that was increasingly invoked in Upper Canada after the War of 1812. Secondly, they were defending “virgin soil,” the idea of the land as unused, or undeveloped was one of the key justifications given by the settler state for dispossessing the land of Indigenous peoples and was a cornerstone of the agrarian settler economy. Thirdly, Indigenous nations’ relationships were directly with the Crown rather than with settler governments. The nature of this relationship had important and continuing

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<sup>22</sup>*St. Catherines Journal*, June 13<sup>th</sup>, 1839; Bond-Head’s Speech from the Throne copied in the *Toronto Patriot*, June 2<sup>nd</sup>, 1838; *Upper Canada Herald*, December 19<sup>th</sup>, 26<sup>th</sup>, 1837; *Christian Guardian*, December 13<sup>th</sup>, 1837, *Bathurst Journal*, May 31<sup>st</sup>, 1838 quoted in McNairn, *The Capacity to Judge*, 204.

<sup>23</sup> *Journal of the House of Assembly of Upper Canada, from twenty-eighth day of December, 1837, to six day of March, 1838*, 450.

implications for Indigenous-settler relations. Bond-Head continued, praising “the Six Nations Indians, the Mississaguas, the Chippeawa, the Hurons, and the Ottawans,” who he claimed “spontaneously competed with each other in a determination to die, if necessary, in defending the British Government under whose paternal protection they and their fathers had been born.”<sup>24</sup> It seems somewhat unlikely that these Indigenous nations were fighting to die for the British government, but this interpretation of their actions represents common settler and imperial misunderstanding of Indigenous peoples and their actions as they navigated ever-encroaching settler structures. Continuing to fight alongside the British was more likely to be used a means to maintain the *status quo* of the relationship with the Crown, while interacting with two settler empires. Additionally, Bond-Head’s language demonstrates the paternalist attitude with which imperial officials viewed Indigenous peoples, seeing the British government as advancing civilization, drawing on theories of stadial civilization from the Scottish Enlightenment.<sup>25</sup> This language was not unique to one Lieutenant Governor, but was echoed by commenters such as Dr. John George Bridges who claimed that settlers’ “right-hearted Indian brethren,” “their fellow subjects,” declared “we have not a “rebel or a radical among us.”<sup>26</sup> Indigenous peoples in this account were portrayed as loyal British subjects, and they were increasingly encouraged by the growing settler state to assimilate into settler political, social, and economic systems, albeit not into the emerging middle class.<sup>27</sup>

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<sup>24</sup> *Journal of the House of Assembly of Upper Canada, from twenty-eighth day of December, 1837, to six day of March, 1838*, 451.

<sup>25</sup> Cecilia Morgan, *Building Better Britains*, 23.

<sup>26</sup> John Bridges, *A Digest of the British Constitution Compiled and Delivered as a Lecture in Many of the Principle Towns of Upper Canada*, 15,16.

<sup>27</sup> Cecilia Morgan, *Building Better Britains*, 17, 23.

Bond-Head's discussion of racialized settlers and white settlers were significantly different from his description of the loyalty of Indigenous people. People of colour, Bond-Head argued, fought against the Americans in defence of British liberty, based largely on the *Emancipation Act* of 1834, which outlawed slavery in the British empire.<sup>28</sup> Meanwhile, loyal farmers and yeomen, white settlers within the province were mentioned only as having formed a militia to defend against American incursions into Upper Canada. The overall response to the Rebellion and American incursions was not surprising to Bond-Head given his understanding of Upper Canada as an integral portion of the British Empire. Though many of the now exiled leaders of the Rebellion had encouraged these incursions, "it seems now to be admitted, that our invaders had been deceived – that they have falsely estimated the Canadian people – and that they have at last learned, that the yeoman, farmers, Militia, Indians and coloured population of this province prefer British institutions to democracy."<sup>29</sup> Though using language that can be read as universal he was discussing almost exclusively the male population of the province. The use of "Canadian" to describe these different groups was an attempt to demonstrate unity within the province in the face of Rebellion and American invasion.

The arrival of Durham in the Canadas was met with reactions that ranged from enthusiasm to skepticism. According to the colonial government and opposition press, including the *Quebec Gazette*, *Toronto Examiner*, and *St. Catherines Journal*, he was greeted warmly by crowds that carried resolutions welcoming him and expressing confidence in his abilities. This confidence was based on letters and speeches that were

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<sup>28</sup> *Journal of the House of Assembly of Upper Canada, from twenty-eighth day of December, 1837, to sixth day of March, 1838*, 451.

<sup>29</sup> *Ibid.*, 451.

“written in a manly and straightforward style happily in keeping with the established character of John George Lambton,” which they believed was evidenced by his involvement with the *Reform Bill* of 1832.<sup>30</sup> Positive political attributes were closely associated with manliness as settlers closely connected justice, liberty, and even good governance to ideal masculinity. Rumours that a form of union would take place began circulating almost immediately after Durham’s arrival, though the details of official union schemes shifted constantly until the actual publication of the report. Within a few months, Durham found himself without the support of Her Majesty’s government, and a recall was eminent. Seeking to avoid such an ignominious fate, he resigned as Governor General promising to continue to advocate for the interests of Canada. Reformers remained supportive and once back in Britain Durham began crafting his report on the affairs of British North America.

The *Durham Report* was published and presented to Parliament in February 1839 and, to borrow the metaphor employed by Lord Durham, diagnosed the ills of colonial administration in the Canadas, and prescribed a series of changes including a legislative union of British North American provinces.<sup>31</sup> Though the extent to which these recommendations directly influenced policy developments may be debated, the *Durham Report* captured the imagination of settlers, provoked impassioned responses from supporters and opponents, and resulted in a shift in the principles of settler and imperial governance.<sup>32</sup> In commenting on the Report settlers in Upper Canada were not

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<sup>30</sup> *St. Catherines Journal*. June 28<sup>th</sup>, 1838.

<sup>31</sup> John George Lambton, Earl of Durham, *Lord Durham’s Report on the Affairs of British North America* ed. Sir Charles Prestwood Lucas, volume 2 (Oxford: Clarendon Press, 1912), 11.

<sup>32</sup> See Chapter 7 of Carol Wilton, *Popular Politics and Political Culture in Upper Canada, 1800-1850*, (Toronto: University of Toronto Press, 2000) for an in-depth examination of this explosion in settler debate; Ged Martin’s, *The Durham Report: A Critical Essay* (Cambridge: Cambridge University Press, 1972); Philip A. Buckner, *The Transition to Responsible Government: British Policy in British North*



responding solely to questions concerning the governance of the Canadas, but rather understood themselves as participants in larger debates of imperial governance and the development of a “liberal system of colonial government.”<sup>33</sup> Throughout the settler empire settlers were able to exert agency and relative autonomy in the development of their respective colonies, and Upper Canadian settlers debated responsible government and its place in imperial governance.<sup>34</sup> As Jack Greene points out, the “British empire might be a free empire for settlers, but not for anyone else.”<sup>35</sup> The *Durham Report* articulated liberal principles of government for settlers and provided what can be seen as a step towards nationhood while advocating for the assimilation of French Canadians.<sup>36</sup> These principles of settler liberty and nationalism, when combined, form the basis of a settler nationalism as settlers sought the replication of British liberties and identities in a colonial setting.

Durham, in his report, aimed at “providing for the adjustment of questions affecting the very ‘form and administration of civil administration’.” He focused primarily on the Canadas, given recent events had “seriously endangered, and in the other actually suspended, the working of the existing constitution.”<sup>37</sup> In his introduction he stressed the importance of a swift resolution arguing delays in settlement produced further instability and uncertainty, which were antithetical to good government. This

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*America, 1815-1850* (Westport, CT: Greenwood Press, 1985) for opposing perspectives on the influence of the Durham Report on imperial governance.

<sup>33</sup> *St. Catherines Journal*. June 28<sup>th</sup>, 1838. Stéphane Dion. “Durham et Tocqueville sur la Colonisation libérale”. *Journal of Canadian Studies* (Spring 1990) 25:1, 60-77. Nancy Christie, “Introduction” in *Transatlantic Subjects, Ideas, Institutions, and Social Experience in post-revolutionary British North America* ed. Nancy Christie (Montreal: McGill-Queen’s University Press, 2008), 16.

<sup>34</sup> Jack Greene, *Exclusionary Empire*, 22.

<sup>35</sup> Greene, *Exclusionary Empire*, 24.

<sup>36</sup> Kathrine Fierlbeck. *Political Thought in Canada*, 48.

<sup>37</sup> *Durham Report*, 9.

sentiment was echoed by many Upper Canadians, especially Reformers, who hoped to see permanent changes that addressed what they perceived to be the maladministration of the colony. Despite this, he argued the need to look beyond the Canadas and consider all of the British North American provinces, which possessed similar forms of government as well as “interests so similar, and occasionally so connected – and interests, feelings, and habits so in common” that it was necessary to consider them in their entirety.<sup>38</sup> Through his argument to consider British North America collectively rather than as separate provinces he outlined the central vision of his report and the means to achieve it, “under wise and free institutions, these great advantages may yet be secured to Your Majesty’s subjects: and connexion secure by the link of kindred origins and mutual benefits may continue to bind to the British Empire the ample territories of its North American provinces, and the large and flourishing population by which they will assuredly be filled.”<sup>39</sup> By linking free institutions to the continued connection to Britain Durham drew on the arguments employed by settlers that combined references to liberty and loyalty. These were not mutually exclusive or even competing categories, but rather inherently and inextricably linked. Expressions of loyalty were conditional on British liberty and justice.

Durham then began his survey of the problems facing British North American provinces. The problems that provoked the Rebellion in Upper and Lower Canada were, according to him, fundamentally different. This separation of the causes and character of the Rebellion in the Canadas dominated contemporary and historical explanations, though Allan Greer, and more recently Barry Wright and Michel Ducharme, have

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<sup>38</sup> *Durham Report*, 9.

<sup>39</sup> *Durham Report*, 13.

demonstrated the similarities rather than differences by considering them as a single event within the same analytical framework.<sup>40</sup> While in Lower Canada he found a “struggle not of principles, but of races,” in Upper Canada “the quarrel is of an entirely English, if not British population.”<sup>41</sup> Durham’s reason for distinguishing between English and British populations here is not entirely clear, but throughout the report English and British are used almost interchangeably. At fault for the Upper Canadian portion of the Rebellion was sustained maladministration produced by the tight grasp of a small group of people on colonial power. Durham rejects the idea that there was a widespread desire to subvert existing institutions or to sever the connection with Britain in preference for union with the United States. Instead, the Upper Canadian rebellion was simply an expression of frustration with colonial administration.<sup>42</sup> His judgment reflected the diagnoses made in colonial newspapers, especially by the opposition press.<sup>43</sup>

Central to the grievances in Upper Canada was the dominance in governance by a “party commonly designated throughout the Province as the ‘family compact’.”<sup>44</sup> This compact was influential in many of the skilled professions and its members, who were linked through ideology and personal relationships, dominated the political life of the colony. Most were “native-born inhabitants of the Colony, or of emigrants who settled in it before the last war with the United States; the principal members of it belong to the

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<sup>40</sup> Greer “Rebellions Reconsidered.” 7-9. See Barry Wright, and F. Murray Greenwood, *Rebellion and Invasion in the Canadas: 1837-1839*. Canadian State Trials; v. II. (Toronto: University of Toronto Press, 2002), 3, 9; Michel Ducharme, *Ideas of Liberty*, for examples of analyzing Upper and Lower Canada in a single analytical framework, and placing the Rebellion in the age of Atlantic Revolutions.

<sup>41</sup> *Durham Report*, 16, 145.

<sup>42</sup> *Durham Report*, 167.

<sup>43</sup> See, for examples of Reform newspapers, *Toronto Examiner*, *Hamilton Express*, *St. Catherines Journal*, *Kingston Herald*, *Brockville Recorder*.

<sup>44</sup> *Durham Report*, 148.

church of England.”<sup>45</sup> Two of the leading members discussed in Chapter Two, John Strachan and John Beverly Robinson, continued to exert influence over the colony’s development into the 1840s and beyond. It should be noted that despite these alliances, they were not a formal party and referring to them as the “family compact” was a rhetorical device based in criticisms of oligarchy and party, criticisms that were rooted in British political culture. Members of the compact, which he called “the official party” were “reluctant to acknowledge responsibility to the people of the colony” and appeared to “have paid a somewhat refractory and nominal submission to the Imperial Government, relying in fact on securing a virtual independence by this nominal submission.”<sup>46</sup> Durham identified their expressions of loyalty as purely performative, and though members of the official party insisted on the genuine connection to and affection for the parent state, a degree of practical independence was dependent on Britain’s confidence in maintaining their North American colonies. Though loyalism did have a performative component it was deeply integrated into the political culture of the colony, and the meaning of loyalty was a major point of contention in settler debates.<sup>47</sup> Requiring not just a passive deference, loyalty demanded active participation in and support for British liberty, British justice, and British institutions.

Despite acknowledging the tension between government supporters, whom he called the compact and the wide range of Reformers, Durham identified two crucial similarities between the groups. The first was in the common origins of their members. According to Durham, the official and reforming parties were “composed for the most

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<sup>45</sup> *Durham Report*, 148.

<sup>46</sup> *Durham Report*, 151.

<sup>47</sup> David Mills, *The Idea of Loyalty in Upper Canada, 1784-1850*, (Montreal: McGill-Queens University Press, 1988).

part, and were almost entirely led-by native born Canadians, American settlers, or emigrants of a very ancient date.”<sup>48</sup> This was framed as separate from what he described as the British population, which was composed of more recent emigrants, who remained British, rather than Canadian. Durham’s choice to refer to them separately and specifically as “native born Canadians” suggests an emerging understanding and recognition of colonial identity as distinct from but still premised on their identity as Britons. Throughout the Durham debates, the demonyms of participants are remarkably fluid, the most common were “Canadian”, “English”, “British subject”, “British settler” “Briton”, “British Canadian”, “Irishman”, “Scotchman”, and “American”, though “American” was typically employed pejoratively, unless modified with “settler,” in which case it seems to be celebrating the Loyalists, with settlers adopting the identity that would be most likely to advance their argument. Though Canadians differed over responsibility of the government to the people, they desired “almost the same degree of practical independence of the mother country,” the second major similarity identified by Durham.<sup>49</sup> Despite the intellectual and political diversity of these groups they were united in professing their attachment to Britain while simultaneously seeking greater autonomy in colonial governance. This fits with expressions of settler nationalism, identifying as both Canadian and Briton, seeking autonomy and independence through performative deference.

After diagnosing the problems facing the Canadas and surveying governance in the other North American colonies the focus of the report shifted to its recommendations. Durham based his recommendations on three fundamental premises that were rooted in

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<sup>48</sup> *Durham Report*, 154.

<sup>49</sup> *Durham Report*, 155.

local circumstances but include a broader discussion of colonial governance. Firstly, both Lower and Upper Canada were in dire need of a decisive solution.<sup>50</sup> Secondly, the prevailing feeling in British North America was one of loyalty and attachment to Britain. The idea that “throughout the whole of the North American Provinces there prevails among the British population an affection for the mother country, and a preference for its institutions” that can form the basis of an enduring connection was central to the recommendations made by the report and was used as justification for uniting the Canadas, and eventually British North America.<sup>51</sup> Thirdly, and closely related to ensuring the continued British connection, responsible government and British imperial governance were compatible. Durham adopted the language of Upper Canadian Reformers, arguing the adoption of responsible government “needs no change in the principles of government, no invention of a new constitutional theory.”<sup>52</sup> Identifying responsible government as a component of the British constitution and English history was an important tool for Reformers and Durhamites within the colony.<sup>53</sup> The extent to which such a system of government was possible in a dependent colony of the British crown was contested by both the Colonial Office, through Lord John Russell, and in the colonies by a wide range of government supporters.<sup>54</sup> Durham believed in and advocated for allowing for independent internal legislation of the colonies in all matters that did not affect their relations with Britain, formalizing and extending a practice that had been in place since the loss of the American colonies prompted a shift in imperial governance.<sup>55</sup>

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<sup>50</sup> *Durham Report*, 260, 261.

<sup>51</sup> *Durham Report*, 262.

<sup>52</sup> *Durham Report*, 277.

<sup>53</sup> Carol Wilton, *Popular Politics*, 195; Gerald Craig, *Upper Canada*, 267.

<sup>54</sup> Gerald Craig, *Upper Canada*, 268.

<sup>55</sup> *Durham Report*, 282; Jack Greene, “Introduction: Empire and Liberty” in *Exclusionary Empire* ed. Jack Greene, 12.

These premises led to the first two recommendations: the assimilation of the French population and the adoption of responsible government. Though not the focus of this chapter, they require a brief discussion as the recommendation of union was directly related to carrying out these ends and the premises supporting all three recommendations comprise the foundational elements of Canadian settler nationalism. According to Durham, the democratization of institutions through responsible government could not be subverted by republicans or settlers in favour of American annexation because of the feeling of “devoted attachment to the mother country.”<sup>56</sup> The connection to union was particularly clear in the discussion of the need for ending disputes based on national character, specifically to ensure Lower Canada be given a “national character” of “the British Empire; that of the majority of the population of British America; that of the great race which must, in the lapse of no long period of time, be predominant over the whole North American continent.”<sup>57</sup> The Anglicization of Lower Canada and its transformation into essentially an English province was crucial to the British imperial project in North America. This imperial project was based on a nineteenth-century understanding of “race” that differentiated between French and English and the idea of extending English dominance over an entire continent, a version of British imperial exceptionalism that drove the expansion of the settler state and the imposition of settler colonial structures.<sup>58</sup> To Durham, there could be no permanent solution for Lower Canada “except of a fusion of the Government in that of one or more of the surrounding provinces.”<sup>59</sup> Doing so would ensure stability for the colony and allow the British to continue to expand across

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<sup>56</sup> *Durham Report*, 284.

<sup>57</sup> *Durham Report*, 288.

<sup>58</sup> Ajzenstat, *The Political Thought of Durham*; Stephane Dion, “Durham et Tocqueville”.

<sup>59</sup> *Durham Report*, 304.

North America. He then elaborated on the idea of colonial expansion, arguing “the greater part of every portion of the American continent is still uncleared and unoccupied,” articulating a doctrine of *terra nullius* that essentially ignored the presence of Indigenous peoples.<sup>60</sup> Settlers would continue to accelerate patterns of dispossession and depopulation that accompanied the increase in the settler population that had occurred in the colonies since 1815.<sup>61</sup> This aspect of the *Durham Report* has been largely ignored, but is an important part of the underlying assumptions guiding the developing settler state, and would provide a framework for its continued growth and entrenchment in British North America.<sup>62</sup>

Union is best understood as both a means and an end in Durham’s vision for the Canadas. According to Durham, it was in fact “the only means of remedying at once and completely the two prominent causes of their present satisfactory condition.”<sup>63</sup> After beginning with a preference for a federal union, he eventually arrived at the conclusion that a legislative union would be preferable. Basing his conclusion on his conversations with settlers while in the Canadas, Durham claimed the “leading minds of the various Colonies [were] strongly and generally inclined to a scheme that would elevate their countries into something like a national existence,” which would eventually coalesce into a “united and homogenous community.”<sup>64</sup> Rather than becoming an independent and self-sufficient nation-state, they would remain a dependent but contributing appendage of

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<sup>60</sup> *Durham Report*, 292.

<sup>61</sup> Cecilia Morgan, *Building Better Britains*, 11; John Beverley Robinson, *Canada and the Canada Bill*, 31.

<sup>62</sup> Ann Curthoys, “The Dog that Didn’t Bark: The Durham Report, Indigenous Dispossession, and Self-Government for Britain’s Settler Colonies”, in *Within and Without the Nation: Canadian History as Transnational History*, eds. Karen Dubinsky, Adele Perry, Henry Yu (Toronto: University of Toronto Press, 2015).

<sup>63</sup> *Durham Report*, 304.

<sup>64</sup> *Durham Report*, 305.



the British empire. Just as in the 1820s, proposals of union were intended to ensure a continued connection to Britain. This plan was a crucial component to restoring stability, as Durham argued that a vigorous English majority was needed to secure stability to the Canadas, which could only be achieved through union. Perhaps anticipating criticisms from Upper Canadians, he specifically detailed the benefits to the colony repeating much of the case made for union in the debates of the 1820s. The four main benefits for Upper Canada listed were: an end to disputes over revenue, access to the St. Lawrence, completion of large public works projects, and increased influence in the British Parliament.<sup>65</sup>

Having established the benefits of a legislative union of the Canadas, Durham turned his attention to the subject of a legislative union of all the British North American provinces. This seems to be Durham's preferred solution, as it would "settle the questions of races, enable the provinces to co-operate for all common purposes, and above all form a great and powerful people, possessing means of securing good and responsible government for itself."<sup>66</sup> These stated reasons all relate to two important themes, stability and the creation of a proto-nationality for British North America. The significance of the language employed in the creation of a new nationality is explored in Chapter Two, but the continued need to construct an identity stemmed from limited communication, trade, and shared institutions. A legislative union would be a process of consolidation, a theme that recurs throughout the discussions of union, and a concept that will be revisited in Chapter Four. The desire to foster this sentiment of national union was promoted as a counterbalance to separation; with the sentiment founded on the idea of

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<sup>65</sup> *Durham Report*, 308.

<sup>66</sup> *Durham Report*, 310.

nationality constructed around Britishness and loyalty. The concept of consolidation was central to understanding Durham's scheme of union, as it extended beyond simply uniting the legislatures into a general government and included several additional measures intended to improve the practical elements of government. The first was the establishment of a common colonial currency, intended to facilitate trade and the diffusion of capital throughout the province. The second was improved infrastructure and increased communication, which would help people feel more connected and better equip settlers for the purpose of defence.<sup>67</sup> A union that had undergone processes of consolidation would, in addition to being more connected to Britain, serve as an effective counterbalance to the United States by virtue of its geographic position and truly British form of government.<sup>68</sup>

It was for the purpose of constructing a nation-like existence for British North America and for the more efficient internal administration of the colonies that Durham would "without hesitation recommend the immediate adoption of a general legislative union of all the British Provinces in North America."<sup>69</sup> Confronted by political realities, however, he recommended the immediate repeal of the 1791 *Constitutional Act* in order to reconstitute the Canadas as a single province. This did not mean an end to the scheme of a general legislative union; instead, Durham suggested a provision be included that would allow other North American colonies to join the union based on internal negotiation and agreement, with no further interference from London.<sup>70</sup> Were this plan executed it would have indicated a shift in authority from London to the colonies,

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<sup>67</sup> *Durham Report*, 318.

<sup>68</sup> *Durham Report*, 309.

<sup>69</sup> *Durham Report*, 322.

<sup>70</sup> *Durham Report*, 323.

effectively empowering them to constitute themselves as they saw fit. Durham's suggestions expanded on this idea of expanding the colony's governance structure, as he suggested establishing for the British North American provinces a general executive and a Supreme Court of Appeal. These institutions were necessary for the provinces of British North America to exercise complete autonomy in internal governance. He submitted his report by concluding with a final summary of his motivation for his recommendations, "the earnest desire to perpetuate and strengthen the connexion between this Empire and the North American colonies, which would then form one of the brightest ornaments in Your Majesty's Imperial Crown."<sup>71</sup> This concluding sentence demonstrated his vision for a united British North America as an enduring and prosperous possession of the Crown, an idea that was evident throughout his report and which appeared to be widely desired by the settler politicians participating in the colonial print community.

Durham's Report sparked months of debate in the Canadas and Britain. Understanding its place in Upper Canadian and imperial history requires moving beyond the text, considering it as both a document and an event. Its impact on settler politics was immediate and explosive, leading Lieutenant Governor Sir George Arthur to comment that Lord Durham had tossed a firebrand amongst the people.<sup>72</sup> The response of Reformers was impassioned, strongly supportive of Durham and his report. Supporters of the colonial government were strongly opposed to the report, casting Durham as an instigator of unrest and instability.<sup>73</sup> Engaged in the Durham debates, settlers once again

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<sup>71</sup> *Durham Report*, 333.

<sup>72</sup> Quoted in Carol Wilton, *Popular Politics*, 194.

<sup>73</sup> Philalethes, *Reply to Lord Durham's Report on the British North American Colonies in a Series of Letters to His Lordship* (Cobourg: *Cobourg Star*, 1839); Carol Wilton, *Popular Politics*, 194-196.

operated within a framework of British constitutionalism, contesting its meaning and full applicability to the colonial context. Reformers primarily focused on responsible government, whereas Tories offered sustained critiques on every component of the *Durham Report* including union, responsible government, and general observations about the colony. These clashes occurred throughout the public sphere and especially through public meetings and newspapers.<sup>74</sup> The interactions between government supporters and opponents demonstrate a common intellectual framework that combined ideas of loyalty and liberty, and built on the desire for continued economic development and geographic expansion.

The *Durham Report* reinvigorated the Reformers, who after the Rebellions were faced with treason trials and other forms of political persecution.<sup>75</sup> The best example of this reinvigoration can be found in the Durham meetings, broad popular gatherings that extended beyond the traditional franchise, and at least temporarily expanded the public sphere.<sup>76</sup> Though these meetings were open to anyone and made specific appeals to traditionally disenfranchised settlers, such as women, the space remained primarily dominated by men. Organizers of the Durham meetings were acutely aware of the political space they were occupying, along with the dangers of being perceived as disloyal or rebellious, and therefore took steps to highlight procedure and respectability. This included encouraging Durham's opponents to attend, because these were meetings not of party, but of the people.<sup>77</sup>

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<sup>74</sup> Carol Wilton, *Popular Politics*, Jeff McNairn, *Capacity to Judge*.

<sup>75</sup> Barry Wright, and F. Murray Greenwood. *Rebellion and Invasion in the Canadas: 1837-1839*. Canadian State Trials; v. II (Toronto: University of Toronto Press, 2002).

<sup>76</sup> Carol Wilton, *Popular Politics*, 197.

<sup>77</sup> Carol Wilton, *Popular Politics*, 199, 200; *St. Catherine's Journal, British Colonist*.

Additionally, Reformers participated in displays of pageantry deliberately intended to emphasize their loyalty and commitment to the British constitution. These displays included large banners and flags that carried slogans such as “Victoria and the Constitution,” and “Durham and Reform.”<sup>78</sup> As Carol Wilton demonstrates, these were co-opted Tory campaign tactics and strategy that fit within well-established conventions for political movements that dated back to eighteenth-century England.<sup>79</sup> The colonial Tories did not allow these meetings to go unchallenged and often carried out acts of political violence. They enjoyed the backing of the apparatus of the colonial state and did not have to worry about potential retaliation, given the need of Reformers to operate clearly within the bounds of respectability and loyalty. As Paul Romney and David Mills argue, operating within these bounds allowed Baldwin and the other Reformers to co-opt and promote a “countermyth to the cult of United Empire Loyalism” which paid little attention to the concept of the rule of law.<sup>80</sup>

Though the primary focus of the Durham meetings was the issue of responsible government, union was an important part of the Durhamite vision. The significance of union as an idea separate from responsible government and assimilation has received relatively little attention, perhaps because the issues were so closely interwoven, with the lines of division drawn in the same place. Even as the Durham debates were taking place the scheme of union was largely ignored, as one commentator pointed out.<sup>81</sup> Settlers recognized the potential significance of the union proposal and the importance of union

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<sup>78</sup> *Toronto Examiner*, copied in *St. Catherines Journal*, August 1<sup>st</sup>, 1839.

<sup>79</sup> Carol Wilton, *Popular Politics*, 198.

<sup>80</sup> Paul Romney, “From Constitutionalism to Legalism, Trial by Jury, Responsible Government, and the Rule of Law in the Canadian Political Culture,” in *Law and History Review*, 7 no. 4 (Spring 1989), 155. David Mills, *Idea of Loyalty*, 8.

<sup>81</sup> O.T. *Remarks on a General Union of the British North American Provinces* (Coburg: *Coburg Star*, 1839)

to Durham's overall scheme. William Hamilton Merritt, a member of the House of Assembly, argued that the union would bring about many benefits, and the "union of the provinces, as Lord Durham had recommended, securing local responsibility in the Executive, would tend to strengthen our connexion with Great Britain; would give scope to, and direct into legitimate and useful channels the ambition of active and aspiring men, would increase the benefits of a judicious system of colonization."<sup>82</sup> This idea of a just and liberal system of colonization was central to the Durhamite vision, and this example demonstrates settler participation in a broader system of transatlantic exchanges of ideas.<sup>83</sup> Merritt repeated these ideas in a Durham meeting in the Niagara region, arguing that "the First measure is a union of the two provinces – without which this province can never prosper."<sup>84</sup> The division of colonies was a major part of imperial governance until the late 1830s and was intended to make colonies more governable. Many of the public meetings passed resolutions that accepted union as an important part of the plan, and one that they "as Britons and the descendants of Britons" should support.<sup>85</sup>

Perhaps unsurprisingly, members of the Family Compact were not particularly receptive of the *Durham Report*, responding swiftly and vociferously through every means available to them including newspapers, pamphlets, and reports of committees from the House of Assembly and Legislative Council. One of the first and strongest critiques outside of letters directly sent to the Colonial Secretary came from a letter published by the *Cobourg Star*, a pro-government paper, under the pseudonym

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<sup>82</sup> Journal of the House of Assembly of Upper Canada, from the twenty-seventh day of February, to the eleventh day of May 1839 (Toronto: J. Cleland, 1839), 367, reported in *St. Catherines Journal*, May 30<sup>th</sup>, and June 20<sup>th</sup>, 1839.

<sup>83</sup> Nancy Christie, *Transatlantic Subjects* 16. Stephane Dion, "Durham et Tocqueville," 61; Janet Ajzenstat, *The Political Thought of Lord Durham*.

<sup>84</sup> *St. Catherines Journal*, September 26<sup>th</sup>, 1839.

<sup>85</sup> *St. Catherines Journal*.

Philalethes, meaning “lover of truth.”<sup>86</sup> Their introduction is addressed as a letter to their fellow subjects, “TO THE LOYAL, FREE AND INDEPENDENT ELECTORS,” and is clearly meant primarily for the men of the colony, who “value the future peace, welfare, and safety of yourselves, your wives, and your families.”<sup>87</sup> The noble character of the province was at stake and, according to this contributor, it was the responsibility of the men of the province to preserve it. Revealing one aspect of Upper Canadian understanding of gender roles and masculinity, Philalethes saw the public sphere as a distinctly male space. They argued the distribution of the report through the colony was being spread by “YOUR WORST ENEMIES,” seeking to instigate “discord and discontent.”<sup>88</sup> The Durham meetings were presented by Philalethes and other Tories as “agitation” rather than “reflection” and productive participation in the public sphere.<sup>89</sup> As Jeffrey McNairn argues, conservatives acknowledged the legitimacy of the public sphere, but believed it should be carefully molded and that Upper Canadians should engage in debates in very specific ways. This shaped Reformers tactics and arguments, and as Carol Wilton demonstrates they attempted to connect their arguments with themes of respectability, loyalism, and continuity.<sup>90</sup>

Though originating outside Upper Canada, Joseph Howe’s reaction in the *Novascotian* best captures the opposing reaction, as he stated, “It is impossible for a colonist to read this report dispassionately through, and not recognize on every page, the features of that system which has now become contemptible in the eyes of every man of

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<sup>86</sup> Philalethes. *Reply to Lord Durham’s Report on the British North American Colonies in a Series of Letters to His Lordship* (Cobourg: *Cobourg Star*, May 1839).

<sup>87</sup> Philalethes, *Letters to Lord Durham*, iii, viii.

<sup>88</sup> Philalethes, *Letters to Lord Durham*, iii.

<sup>89</sup> *The Church*, November 23<sup>rd</sup>, 1839; *Niagara Chronicle copied in the Coburg Star*, September 11<sup>th</sup>, 1839 quoted in McNairn, *The Capacity to Judge*, 207

<sup>90</sup> Carol Wilton, *Popular Politics*, 207.

common understanding.”<sup>91</sup> Where Philaethes saw partisan untruths, Joseph Howe saw a vindication of Reformers’ critiques of colonial maladministration across British North America, a perspective echoed in Upper Canada by, among others, Robert Baldwin, Francis Hincks, and William Hamilton Merritt.<sup>92</sup> The *Durham Report* and responsible government were subjects which Reformers across the provinces of British North America supported and inadvertently helped to facilitate the growth and formalization of political parties. Hincks and Baldwin sought to build on this in the Canadas through their communications with Louis Hippolyte LaFontaine, a Lower Canadian Reformer, laid the foundation for a coalition that transcended the divisions anticipated by the British government and the Colonial Office.<sup>93</sup> Not only did Reformers support the content of the Report, they viewed the Durham debates as “vehicles for re-establishing the rights of public assembly and discussion, increasing the spirit of inquiry, and expressing public opinion.”<sup>94</sup> The contention came not over the issue of public opinion as a source of constitutional authority, but over the most legitimate method for its expression.

Having introduced the purpose of their intervening pamphlet, Philaethes turned their attention to directly responding to the ideas expressed in the *Durham Report*, seeking to illuminate its alleged falsehoods. The language of truth and accusing Durham of spreading partisan lies was not exclusive to pamphleteers. Various institutions of state, such as the Newcastle Assizes characterized the report as libel.<sup>95</sup> John Beverley

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<sup>91</sup> *Novascotian*, April 10th, 1839. Reprinted in *St. Catherines Journal*, May 23<sup>rd</sup>, 1839.

<sup>92</sup> Though William Hamilton Merritt found himself on the Reform side of this debate he was called a “reformed Tory,” and praised for his independence, the Tory press was far less kind.

<sup>93</sup> Public Archives of Canada, LaFontaine Papers, Hincks to LaFontaine April 12<sup>th</sup>, 1839, quoted in J.M.S. Careless, *The Union of the Canadas: The Growth of Canadian Institutions 1841-1857* (Toronto: McClelland and Stewart, 1967), 12.

<sup>94</sup> Canadian Oak, *Brockville Recorder*, August 15<sup>th</sup>, 1839; A Correspondent, *British Colonist*, August 28<sup>th</sup>, 1839 quoted in McNairn, *The Capacity to Judge*, 209.

<sup>95</sup> *Cobourg Star*, May 22<sup>nd</sup>, 1839.



Robinson was perhaps slightly more diplomatic, claiming that Durham's analysis of Upper Canada contained numerous errors. He was, however, no less convinced of the injurious nature of the *Durham Report*, viewing it as a source of inspiration for agitation and unrest.<sup>96</sup> Both Robinson and Philalethes dismissed the existence of a "Family Compact" as a myth of the Reformers and were highly critical of responsible government, viewing it as incompatible with Upper Canada's status as a colony. Philalethes identifies Upper Canada as loyal and conservative, and describes Upper Canadians, especially the "brave and loyal farmers," as being "members of the most free, independent, and respectable yeomanry."<sup>97</sup> This vision of the independent yeoman, male farmer was an important part of settler self-image, a vital component of a burgeoning settler nationalism, and the construction of the colonial political economy.<sup>98</sup>

The report from the Colonial Assembly written by the Attorney General, Christopher Alexander Hagerman, outlined the key grievances of its members with Durham and the *Durham Report*.<sup>99</sup> C.A. Hagerman was an active participant in settler politics from the 1820s, one of Macaulay's chief supporters in Kingston of the pro-union side in the *Bill of Union* debates, and one of the most commonly caricatured members of the Family Compact.<sup>100</sup> The report rejected the idea of an "official party," listed American incursions into the province, and provided six conditions that a bill for the legislative union of the Canadas must meet to receive the Assembly's support. Firstly,

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<sup>96</sup> Robinson, *Canada and the Canada Bill*, 67.

<sup>97</sup> Philalethes, *Letters to Lord Durham*, v, 3.

<sup>98</sup> Cecilia Morgan. *Public Men and Virtuous Women; Cecilia Morgan. Building Better Britains*, 95, 96.

<sup>99</sup> C.A. Hagerman *Report of the House of Assembly of Upper Canada*.

<sup>100</sup> Robert L. Fraser, "HAGERMAN, CHRISTOPHER ALEXANDER," in *Dictionary of Canadian Biography*, vol. 7. University of Toronto/Université Laval, 2003-, accessed May 10, 2017. *Toronto Examiner. St. Catherines Journal*, July 4<sup>th</sup>, and 19<sup>th</sup>, 1839. *Kingston Herald*, June 30<sup>th</sup>, 1839. S.F. Wise points out that Hagerman was not one of Strachan's former students, though their interests often aligned and he had attained a position of influence in the colony.

the seat of government must be within the boundary of Upper Canada; secondly, Gaspe, Bonaventure, and Rimouski would be annexed to New Brunswick; thirdly, property qualification would be set for membership in the House or Legislative council; fourthly, Lower Canada's representation would be set at 50, with Upper Canada's staying at its present representation which would have given it a majority in the united legislature; fifthly, that English would be the language of administration; and finally, the debts of both provinces were to be taken on by the United Province.<sup>101</sup> These conditions were intended to ensure Upper Canada would benefit from any union measure enacted by Parliament and they would form the basis for discussions between Sydenham (Charles Thomson) and settler politicians, which will be explored further in the next chapter.

This report received a great deal of attention from the opposition press, who were quick to dismiss Hagerman and his report. The press sought to return the focus of the Durham debates to responsible government rather than union. The *Kingston Herald* bluntly pointed out it was natural that Hagerman would have complaints given his involvement in the system Durham was criticizing.<sup>102</sup> Other criticisms focused not just on Hagerman, but on the assembly and government as a whole: "the reptiles who have wormed themselves into office, and been glutted in the life blood of the colony, may spit their venom upon Lord Durham's Report, until the sources of their poison becomes exhausted: it carries its own antidote."<sup>103</sup> Reform papers sought to discredit Toryism, as well as its major proponents in the colony by connecting them to oligarchy and oppression, arguing that the Tories' opposition to the report was only confirming its truth.

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<sup>101</sup> C.A. Hagerman, *Select Report of the House of Assembly*.

<sup>102</sup> *Kingston Herald* copied in the *St. Catherines Journal*, June 13<sup>th</sup>, 1838

<sup>103</sup> *St. Catherines Journal*, May 30<sup>th</sup>, 1839.

An additional way of vilifying Toryism was by connecting it to the loss of the American colonies, suggesting a similar fate could befall the Canadas: “we distinctly charge all the calamities that have befallen this ill-fated province, to the account of Toryism: and the loss of the United States to the British, to the same source; and if not exterminated from British North America, half a century will not elapse before another “Declaration of Independence” will be inscribed upon another monumental column, erected to commemorate departed tyranny, and a further dismemberment of the British empire.”<sup>104</sup> Responsible government and the end of oligarchic rule were the only means by which the colony of Upper Canada could be secured for the British; without them, rebellion would almost certainly return. The editors rooted their arguments for this solution in British constitutionalism rather than in any other system of constitutional thought.

Reformers were not alone in using this language of conditional loyalty. It was employed by settler politicians from the many different political factions. This suggests that amidst professions of loyalty and feelings of attachment to the parent state, Upper Canadians expected to continue to enjoy the benefits of the British constitution. For example, Philalethes, who appears to have been a particularly partisan Tory commentator, argued that Upper Canadians’ “loyal and patriotic feelings will cease to exist if your absurd, but most villainous projects should be adopted.”<sup>105</sup> Responsible government and union were the two projects described in this series of letters as evils that would harm the prosperity of Upper Canadians and should be denied to ensure Upper Canada’s continued loyalty. The rejection of the proposals and the idea of conditional loyalty were closely linked to ideas of settler identity and to an active effort to

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<sup>104</sup> *St. Catherines Journal*, June 30<sup>th</sup>, 1839.

<sup>105</sup> Philalethes. *Letter to Lord Durham – Letter IV* (Cobourg: *Cobourg Star*, 1839). 30.

differentiate British inhabitants of North America from Americans. Durham had drawn parallels between English Canadians and Americans in his report, and as Jane Errington argues, Upper Canada's development was heavily influenced by both the British and American empires.<sup>106</sup> These letters however, rejected any form of positive relationship with the United States and argued that "instead of envying or sympathizing with them, our English population regard the inhabitants of the American frontier with a proud consciousness of moral, physical, and political superiority mingled with ineffable contempt and intense hatred."<sup>107</sup> According to these letters, moving to a system of responsible government within a united Canada would remove the feeling of loyalty from Upper Canadians because it would move them further away from the British Constitution. Though settlers frequently critiqued or contrasted their institutions from American republicanism, few were as explicitly anti-American as Philalethes, and others even drew on American policy ideas. Ultimately, these letters demonstrate that loyalty to the Crown was conditional and could be expected only so long as they remained under a true British constitution. Changes that made the colony more American, democratic, or republican would eventually result in an unfortunate separation.

Reformers meanwhile argued the exact opposite: that without an immediate end to oligarchy through the implementation of responsible government the British connection would be lost. They claimed that "if the principle of 'responsibility' is not conceded upon the very first trial of the new Legislature, it will occasion more serious trouble than any we have yet experienced, if it does not, indeed, form the basis of a

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<sup>106</sup> Jane Errington. *The Lion, The Eagle, and Upper Canada: A Developing Colonial Ideology* (Montreal: McGill-Queens University Press, 1987), 189.

<sup>107</sup> Philalethes, *Letters to Lord Durham – Letter VII*, 53.

separation.”<sup>108</sup> In both cases separation is discussed as a last resort, with a clear preference expressed for maintaining the British constitution and the connection to Britain. It is clear nonetheless, that though this carried different meanings for various settlers, it was within the framework of Britishness that settler debate took place. Neither loyalty nor liberty are on their own sufficient for explaining this intellectual framework; they must be understood as mutually constitutive. As Carol Wilton argues, the public meetings and press in Upper Canada set the bounds of acceptable involvement in the public sphere within the expressions of Britishness and these ideas were evoked at the popular level.<sup>109</sup> In making appeals to the public sphere, liberty and loyalty were connected through visions of Upper Canada as a distinct settler society with English laws. The active public sphere and vibrant print culture allowed Upper Canadians the ability to define and negotiate their identities and relationship to each other and the parent state.

John Beverley Robinson, now the Chief Justice of Upper Canada, once again found himself in London at a crucial time, and he remained there throughout the subsequent union debates, which will be explored further in Chapter Four. His initial reaction was almost immediate, sending letters to the Colonial Secretary refuting the *Durham Report* as early as February 9th, 1839.<sup>110</sup> As one of the leading members of “the Family Compact,” Robinson’s opposition is hardly surprising, but his interpretation of the Rebellion, Upper Canada’s political climate, and proposed solutions reveal some of the priorities of Upper Canadian settlers, priorities rooted in a distinctly Upper Canadian settler identity, which Errington argues emerged between 1791 and the late 1820s.<sup>111</sup>

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<sup>108</sup> *St. Catherines Journal*, August 1<sup>st</sup>, 1839.

<sup>109</sup> Carol Wilton, *Popular Politics*, 4, 9, 197.

<sup>110</sup> John Beverley Robinson, *Canada and the Canada Bill*, December 30<sup>th</sup>, 1839.

<sup>111</sup> Errington, *A Developing Colonial Ideology*, 189.

Though there may be similarities with other British North American provinces, Robinson was first and foremost concerned with the development of Upper Canada. He began by refuting one of the fundamental assumptions of the *Durham Report*, that the separation of the provinces was the root of maladministration. Consistent with his position from the 1820s, he contended that “the reuniting of the provinces would prove to be, in fact, a much more unfortunate policy than the separation of them is ever supposed to be.”<sup>112</sup> The idea that a reunion would lead to stagnation would reappear frequently in arguments about the union of the Canadas. Robinson argued that Upper Canada, if left as a separate colony from Lower Canada, possessed the proper character to encourage and facilitate its future development, especially if certain policies of colonization were pursued. Union with Lower Canada would put that development at risk, which Robinson argued could be mitigated through union with the other British North American provinces.<sup>113</sup> This seems to be a framing device as he immediately mentions opposition to this idea in Nova Scotia and New Brunswick, information he then used to illustrate the key point of his opposition to union, because in his view combining with Lower Canada would be a dangerous and destabilizing force for Upper Canada.

Another area of disagreement between Durham and Robinson was in their assessment of what they called the national character of the provinces of British North America. Durham believed in the need to construct a national identity for the British North American provinces, whereas Robinson argued a national character and feeling based on attachment to the British Crown already existed and had developed through

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<sup>112</sup> John Beverley Robinson, *Canada and the Canada Bill*, 7.

<sup>113</sup> *Ibid.*, 41.

participation in the War of 1812.<sup>114</sup> This feeling, he argued, distinguished them from Americans but posed no risk for the formation of an independence movement because all “British Canadians, do now see, and will understand that nothing coincides more happily than their feelings, their interest, and their duty than under the present arrangement.”<sup>115</sup> Referring to the inhabitants of the Canadas as British Canadians acknowledges their place within Empire and their identity as British, but also recognizes a distinctiveness and suggests a shift towards a settler identity based on a distinct nationality within the British empire. To Robinson, the idea that Upper Canada could even aspire to independence was absurd; the only other, equally absurd, option was to unite with the United States, which he believed they would never do willingly.

In what seemed to be a common tactic for Robinson, he offered a series of potential plans to replace the one preferred by Parliament and the Colonial Office. In doing so, he argued that it was important to consider the wishes of the inhabitants of the provinces, advocating for a degree of control over the colonial constitution that seems to confirm Durham’s statement about Canadian parties’ desire for a degree of practical independence. The first four of nine suggestions centred around various legislative, proto-federal, and trade unions. His first two resembled what would become the *Act of Union* in 1840, which he opposed, and the previously entertained and aborted *Bill of Union* of 1822, which he also opposed. Including proposals he opposed was an exercise in performed political independence, by demonstrating a willingness to consider any and all alternatives he was attempting to display an aloofness from partisan preferences. The idea of a trade or customs union, akin to the German *Zollverein*, would recur in future

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<sup>114</sup> Ibid., 15.

<sup>115</sup> Ibid., 19.

debates about colonial organization and was based on allowing the colonies to legislate for themselves on other matters.<sup>116</sup> By this point, Robinson opposed the implementation of a union of British North America and a union with Lower Canada most of all.

Having provided a cursory overview to these options, which he viewed as contrary to Upper Canadian interests and by extension imperial interests in British North America, he attempted to provide alternatives. The first, and his preferred solution, was a revival of a plan that had circulated several times since 1828, which was to “extend the limits of Upper Canada, so as to embrace the island of Montreal with some of the territory on the opposite side of the St. Lawrence, and all the lands on the southwest side of the Ottawa.”<sup>117</sup> This plan would give Upper Canada permanent access to the St. Lawrence, securing for the colony stability of trade and continued economic prosperity.<sup>118</sup> After adjusting the territorial arrangement, the Colonial Office could either restore the former or an amended constitution to Lower Canada or simply allow it to continue on as it was, as long as the Upper Canadian constitution remained unaltered and unaffected. If they chose to leave the Canadas organized as they were, he argued Upper Canada should be able to set the civil list and trade and revenue agreements with Lower Canada able to refuse or amend it only through imperial Parliament.<sup>119</sup> His final possible arrangement which was “preferable to the danger of union” was to continue on with the post-Rebellion status quo, making no changes to the existing colonial constitution. Though Robinson clearly privileges the interests and stability of Upper Canada in these suggestions, he argued that they “must be sensible to the real importance of the question,

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<sup>116</sup> Ged Martin, *The Durham Report and British Policy*, 71.

<sup>117</sup> John Beverley Robinson, *Canada and the Canada Bill*, 71.

<sup>118</sup> Donald Creighton, *Commercial Empire of the Saint Lawrence*.

<sup>119</sup> John Beverley Robinson, *Canada, and the Canada Bill*, 72.



we must view it in connexion with the general interests of empire.”<sup>120</sup> He understood his contribution and whatever decision eventually made by Parliament as a part of a broader system of imperial governance.

Among the fundamental questions in terms of imperial governance was whether a dependent colony such as Upper Canada could have a system of responsible government while remaining a part of empire. This was an issue raised in debates on both sides of the Atlantic, in Britain by the Colonial Secretary, Lord John Russell, and in the colonies, by C.A. Hagerman and John Beverley Robinson. They argued that responsible government was fundamentally incompatible with Canada’s status as an appendage of empire.<sup>121</sup> The *Toronto Examiner*, focusing on the report of the House of Assembly, dismissed these interpretations as incomplete and insisted that responsible government was merely the extension of principles of the British Constitution.<sup>122</sup> Reformers argued that “no Briton will long submit to be deprived of any share of his rights and liberty, here, which he enjoyed at home, and which is guaranteed to him by the principles of the British constitution,” and “neither will any native Canadian accept any less share than what is bestowed upon a Briton.”<sup>123</sup> This argument is based on the idea that though removed from Britain, settlers should enjoy the same rights and privileges afforded to enfranchised British citizens. This idea is highlighted throughout Reformers’ arguments and included the claim that “British liberty, free and untrammelled is to be the birthright of every Canadian. British legislation will rear its temples to British justice; and British laws,

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<sup>120</sup> John Beverley Robinson, *Canada and the Canada Bill*, 73.

<sup>121</sup> Report of the House of Assembly; John Beverley Robinson, *Canada and the Canada Bill*.

<sup>122</sup> *Toronto Examiner*, “Brief Review of that Section of the Report from the Select Committee of the House of Assembly of Upper Canada appointed to report on the state of the province which adverts to the Report of the Earl of Durham,” 20.

<sup>123</sup> *St. Catherines Journal*, August 1<sup>st</sup>, 1839.

enforced by a responsible Executive, will guard the sacred rights of every subject.”<sup>124</sup> Even being born in the colony as “native Canadians” did not exclude them from their rights as Britons and it required no change in relationship between the imperial state and settler colony to secure the liberties which they saw as already theirs. Instead, responsible government would, according to Reformers, ensure a long lasting and continued connection between the Canadas and Britain.

The best means to maintain this connection also factored into discussions of what type of union, if any, should be implemented in the Canadas, or in British North America. Even amid language of the permanence of this connection, many maintained the idea that a separation would eventually have to occur, “like a child leaving the parental hearth.”<sup>125</sup> The idea that the Canadas could be held through a consolidation of empire and a liberal constitution was fairly widespread and persuasive in the settler and imperial imagination. G.A. Young, a British lawyer interested in the Canadas, argued that the goal should be “to hold the province, if possible, in perpetuity – to make them in reality and not in appearance only, integral parts of the British Empire.”<sup>126</sup> The best way to do that, in his opinion, was to give the British North Americans representatives in Parliament, and he seemed skeptical that a federal union would strengthen or preserve the integrity of empire.<sup>127</sup> This form of consolidation would allow the colonists to feel “they were now truly British subjects,” and “would enfuse a British spirit into the whole confederacy.”<sup>128</sup> Durham himself slowly lost faith in a federal project, though it was a scheme that Tories

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<sup>124</sup> *St. Catherines Journal*, May 30<sup>th</sup>, 1839.

<sup>125</sup> John Bridges. *A Digest of the British Constitution*, iv.

<sup>126</sup> G.A. Young. *The Canadian Question*, 46.

<sup>127</sup> *Ibid.*, 74.

<sup>128</sup> O.T., *Cobourg Star*, 100.

such as John Beverley Robinson continued to prefer to a legislative union of just the Canadas. Durham advocated for an immediate legislative union of the Canadas, followed by a gradual consolidation of the North American colonies with the end goal being “one territory or kingdom, forming them into a nation acting in unity, under the protection of the British empire.”<sup>129</sup> This eventually transpired with the Confederation debates and was replicated in other British settler colonies. Common to these potential arrangements was the construction of a nation within empire, with a large degree of independence that to varying degrees can be understood as an early version of settler nationalism. How people understood competing and overlapping identities – Upper Canadian, British North American, and British – influenced which solution they were most likely to advocate, but the continued connection to Britain was a crucial component in all of these outcomes.

The Rebellion and the *Durham Report* moved union from a list of abandoned imperial policies to a real and practical possibility. The *Durham Report* viewed union not solely as a means for assimilating the French population of British North America, as historians have tended to focus on.<sup>130</sup> Instead, it should be viewed as a part of a scheme of consolidation, envisioned to produce a proto-national existence for the settler colonies in British North America. This idea of colonial consolidation would become an important component of governance in settler colonies around the empire and would return to the Canadian public sphere in future debates of union. Settlers in Upper Canada participated in the Durham debates with a view to solving their own local problems and recognized the implications of their debates on imperial governance, especially other settler governments. Within the next ten years, responsible government became a

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<sup>129</sup> O.T. *Cobourg Star*, 38.

<sup>130</sup> Ajzenstat, *Political Thought of Lord Durham*, 16.

rallying point for reform politicians around the British Empire, including Joseph Howe in Nova Scotia and O'Connell in Ireland. The liberal system of colonization would be built on ideas of free trade within empire, land policy, and the construction of a distinct settler nationality that would remain subordinate to the British Empire. Emerging citizens in Upper Canada could at once be Canadian and Briton, so long as they continued to experience the liberties traditionally extended to them. This idea was a major part of the Durham debates among settlers in British North America as they sought solutions that would permit a large degree of practical independence while maintaining a British character built on understandings of English law and justice.

The report of Lord Durham may not have translated directly into imperial policy, but it marked a return to union debates that had been mostly dormant since the failed 1822 *Bill of Union*, and it facilitated the consolidation of Upper Canadian settler identity. Responsible government was still deemed too democratic by the British government and the Colonial Office; considered antithetical to colonial governance, it was not implemented with union in the years immediately following the Durham debates. The appointment of Charles Thomson, later Lord Sydenham, to succeed Durham helped to ensure the idea of consolidation was pursued, the impact of which will be the subject of Chapter Four. Additionally, there was an important shift that built upon the concept of consultation articulated in the 1820s. Settlers argued that it was the responsibility of Parliament to take into account the wishes of the inhabitants of the colonies, with some suggesting that they should be able to constitute themselves into whatever arrangements they saw fit. These arguments were rooted in loyalty and liberty that combined in settlers' understandings of their British identities. Many of these understandings

remained unchanged from the debates of the 1820s, with settlers and imperial officials continuing to privilege Englishness. Loyalty to Britain and attachment to the British constitution were connected to British liberties, and together formed the foundations of settler debate, even while their definitions remained contested and debated in the settler public sphere. How these concepts were understood and employed by settlers was highly flexible, but they remained central to the colonial public sphere. These ideas contributed to the development of settler nationalism, which would drive demands for settler autonomy that accompanied the growth and expansion of the settler state.

**Chapter Four:  
Enacting Union:  
Constitutional Reform and Empire, 1839-1841**

By 1839, the *Durham Report* and subsequent debates moved the reunion of the Canadas to the centre of the Whigs' Canada policy. The planned reunion of Upper and Lower into a single province produced a transatlantic debate that continued to draw on the themes of Britishness, imperial governance, loyalty, and liberty that were central to Upper Canadian politics. Upper Canadians were not passive, mostly unwilling recipients of imperial dictates as they have been portrayed in the Confederation literature by Christopher Moore and older studies of their political culture, but rather were active participants in the shaping of union which they recognized as producing a new constitutional document.<sup>1</sup> By participating in the transatlantic union debate Upper Canadians reshaped not one, but two constitutions: the colonial one they were asked to approve and, inadvertently, the far less tangible imperial constitution. Upper Canadians were not the originators of this constitutional change, and though Charles Poulett Thomson (Lord Sydenham) drafted much of the final measure in the colonies responding to feedback and his understanding of public opinion, it cannot be understood as a locally-drafted constitution. The ways in which Upper Canadians engaged with this debate posed challenges to conventions of imperial sovereignty and the legitimacy of those challenges, recognized in both Upper Canada and Britain, made the increasing autonomy of settler dominions a reality.<sup>2</sup> The transatlantic dimensions of the debates surrounding

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<sup>1</sup> Christopher Moore, *1867: How the Fathers Made a Deal* (Toronto: McClelland and Stewart, 1997), 50, 234-235; Gerald Craig, *Upper Canada: The Formative Years*, 1963. Reprint. (Don Mills, Oxford University Press, 2013), 270.

<sup>2</sup> Eliga Gould, "Liberty and Modernity: The American Revolution and the Making of Parliament's Imperial History" in *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. Jack Greene (Cambridge: Cambridge University Press, 2010), 112-115; Lauren Benton and Lisa Ford, *Rage for Order: The British*

the 1840 *Act of Union* marked the beginning of a new era of imperial and colonial governance, and developed the practical framework for the blueprint provided by the *Durham Report*.<sup>3</sup> This chapter revisits the debates over the *Act of Union* from the perspective advocated by Nancy Christie, focusing on what she described as the “circum-Atlantic exchange of ideas and social forms,” reading them as an extension of British institutional frameworks.<sup>4</sup>

The debate assumed these transatlantic dimensions due to the growth of the Upper Canadian public sphere and the recognition that British subjects (that is, male, propertied, literate subjects) had the capacity to rationally decide their own constitutional fate.<sup>5</sup> Though there was fairly widespread support for the union measure, there was also significant opposition levied by Tories, both Upper Canadian and British, who saw the measure as a threat to the British imperial project in North America. Historians such as Gerald Craig and J.M.S. Careless privileged the Family Compact’s staunch of opposition to union in their accounts, which portray Upper Canada as monolithically and overwhelmingly anti-union.<sup>6</sup> However, such a position does not capture the attitude of the colonial public sphere and legislative bodies that approved of the measure. Supporters and opponents of union both argued that their preferred outcome was the best

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*Empire and the Origins of International Law, 1800-1850* (Cambridge, MA: Harvard University Press, 2016), 13.

<sup>3</sup> Ann Curthoys, “The Dog that Didn’t Bark: The Durham Report, Indigenous Dispossession, and Self-Government for Britain’s Settler Colonies” in *Within and Without the Nation: Canadian History as Transnational History*, eds, Karen Dubinsky, Adele Perry, Henry Yu (Toronto: University of Toronto Press, 2015).

<sup>4</sup> Nancy Christie “Introduction: Theorizing a Colonial Past-Canada as a Society of British Settlement” in *Transatlantic Subjects: Ideas, Institutions, and Social Experience in Post-Revolutionary British North America* ed. Nancy Christie (Montreal: McGill-Queens University Press, 2008), 9, 16.

<sup>5</sup> Jeffrey L. McNairn, *The Capacity to Judge*, (Toronto: University of Toronto Press, 2000), 233.

<sup>6</sup> Gerald Craig, *Upper Canada: The Formative Years*, 1963. Reprint. (Don Mills, Oxford University Press, 2013), 270. J.M.S. Careless, *The Union of the Canadas: The Growth of Canadian Institutions, 1841-1857* (Toronto: McClelland and Stewart, 1967), 9.

way to secure the imperial connection, and to ensure the stability and prosperity of Upper Canada. In doing so, they operated within the same intellectual framework, one in which they were at once the English provincialists described by Phillip Buckner, and the Upper Canadian nationalists identified by Terry Cook and S.F. Wise.<sup>7</sup> This chapter argues that these two apparently competing identities were held simultaneously and were complementary to each other, rooted in a non-binary spectrum of settler identities best understood as a form of settler nationalism. Upper Canadians participating in the union debates viewed themselves both as British (or English) and as members of a distinct settler polity, as they sought to preserve their distinctiveness and secure increased autonomy within the British empire. To understand settler nationalism and Upper Canadian political culture, both support for and opposition to union must be considered as not solely motivated by material self-interest and inherent resistance to change.<sup>8</sup> Revisiting the union debates allows the exploration of a contested intellectual space that reveals Upper Canadian political culture beyond historiographies that emphasize either loyalty or liberty as the exclusive and defining characteristic.<sup>9</sup>

This chapter begins by demonstrating the continued influence of the Rebellion and Durham Report on the colonial public sphere. It then explores the draft *Bill of Union*, presented to the House of Commons in June 1839, and the implications of the arguments employed to delay its adoption. Next, in order to explore the transatlantic

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<sup>7</sup> Phillip Buckner, *Transition to Responsible Government* (Westport, CT: Greenwood Press, 1985), 99; Terry Cook, "Robinson and the Conservative Blueprint" in *Ontario History* 64 (1972); S.F. Wise, *God's Peculiar People Essays on Political Culture in Nineteenth Century Upper Canada*, Ed. by A.B. McKillop and Paul Romney (Ottawa: Carleton University Press, 1993), 181.

<sup>8</sup> McNairn, *The Capacity to Judge*, 3.

<sup>9</sup> McNairn, *The Capacity to Judge*; Carol Wilton, *Popular Politics* (Toronto: University of Toronto Press, 200); McKay, "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History," *Canadian Historical Review* 81 (2000) 617-645, reprinted in *Liberalism and Hegemony* (Toronto: University of Toronto Press, 2009).



dimensions of the debate it considers Charles Poulett Thomson, who as the Governor General participated in the debates on both sides of the Atlantic. From his arrival in Upper Canada and the union debates that took place in the province from the time news of his appointment reached Upper Canada in October 1839 until the prorogation of the House of Assembly in February 1840, Thomson gathered feedback from settlers, which shaped the form and implementation of the *Act of Union*. The focus then shifts across the Atlantic to John Beverley Robinson, still in London, who urged Parliament to consider all means of resolving the crisis other than uniting Upper and Lower Canada, which in his view would endanger their continued connection to empire. The *Act of Union* itself will then be discussed, with a focus on how the union was to be implemented and the envisioned relationship between its constituent components. It will then return to the Upper Canadian public sphere to examine its implementation and reception, especially what settlers hoped would be achieved through union. The 1841 election, and the continued discussion of union and its significance, will then be discussed. Finally, it considers the effects of the debate on the colonial and imperial constitution, and how settlers viewed these changes. This chapter accepts, for the most part, J.M.S. Careless's assertion that there were "mingled strains of doubt and hope," but contends the optimism and hope outweighed the doubt surrounding the measure. The support for union is best understood as a form of settler nationalism rooted in a belief that the consolidation of the Canadas would produce an English colony that would enjoy practical independence while retaining their connection to Britain.<sup>10</sup>

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<sup>10</sup> J.M.S. Careless, *The Union of the Canadas*, 8. English not solely in language, but in nationality.

The first draft of a *Bill of Union* was prepared under the guidance of Lord Normanby, then the Colonial Secretary, and presented before Parliament towards the end of the session, in June, 1839. This bill proposed repealing the 1791 *Constitutional Act*, implementing a new system of local government and redrawing electoral districts.<sup>11</sup> This first draft relied on a quasi-federal structure that would divide the province into five administrative units with significant local powers of taxation.<sup>12</sup> Additionally, these districts would be further subdivided into electoral ridings for the United Legislature and were devised to ensure English ascendancy in the Canadas. Unlike the 1822 *Bill of Union*, which proposed the union of the legislatures of the two colonies, this version emphasized the reunion of the two provinces. Although the distinction may seem minor, the use of “reunion” rather than simply a “union” is significant for two reasons. Firstly, it invoked the idea of a natural and historic connection between the two colonies, rooting the bill not in theory, but in, as Eliga Gould described it, “the fluid and often contradictory lessons of history,” that fit with Burkean ideas of colonial governance that had become more widespread since the loss of the Thirteen Colonies.<sup>13</sup> It was the contradictory lessons of history that allowed for such fierce debates over the union of the Canadas, as supporters and opponents of union advanced their own narratives of colonial history from 1791 onwards. Secondly, it demonstrates the intention to merge not just the legislatures of two distinct colonies, but to combine Upper and Lower Canada into a single polity, which would become a major point of contention for settlers like John

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<sup>11</sup> *Bill for the Reunion of the Provinces*, June 1839.

<sup>12</sup> *Bill for the Reunion of the Provinces*, June 1839.

<sup>13</sup> Gould, “Liberty and Modernity,” 131.

Beverley Robinson. It was armed with this draft of the bill that Charles Thomson was dispatched to British North America.

The principle of union was supported by both the Whig government and the Tory opposition, but Sir Robert Peel, leader of the Tories, would not support the bill unless it received the assent of the Upper Canadian Legislature.<sup>14</sup> The Whigs agreed with the prudence of this measure, and Lord Melbourne, Lord Normanby, Lord John Russell, and Charles Thomson supported the principle of obtaining the support of the settlers before passing legislation.<sup>15</sup> This marked a significant departure from the union debates of the 1820s, discussed in Chapter Two; however, though the British government was interested in the opinion of settlers, they were not willing to cede sovereignty to the legislature of this province. Additionally, in the 1820s, both houses of the colonial legislature were unwilling to offer an opinion – either in favour of, or in opposition to, union – and individual members offered their opinions with calculated deference.<sup>16</sup> In the imperial constitution, the British Parliament was representative of the British nation in its entirety, which included settlers in emerging colonial societies.<sup>17</sup> Though British Whigs and Tories would deny the idea that a colonial legislature could be sovereign, their refusal to enact union until they received colonists' consent to the measure demonstrates a shift in

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<sup>14</sup> Charles Poulett Thomson to Lord John Russell, June 28<sup>th</sup>, 1839 in *Letters from Lord Sydenham, Governor General of Canada 1839-1841 to Lord John Russell*. Ed. Paul Knaplud (Clifton, New Jersey: Augustus M. Kelley Publishers, 1973), 23. Lower Canada's legislature was suspended, and the colony governed by a Special Council, which imperial officials were fairly confident would approve the measure.

<sup>15</sup> *Brockville Recorder and the Eastern*, October 10<sup>th</sup>, 1839.

<sup>16</sup> John Beverley Robinson, *Canada and the Canada Bill* (London: J. Hatchard & Sons, 1839), 114. The idea of calculated and performed deference in the 1820s debates is further explained in Chapter Two of this thesis.

<sup>17</sup> Henry Taylor, *On the forthcoming union of the two Canadas, addressed to the Canadian public and their representatives in the honourable legislature of united Canada. No. III of the Considerations of the Canadas* (Montreal: John Lovell, 1841), 12-15; Eliga Gould, "Liberty and Modernity," 128.

the principles of imperial governance that would soon permit settler self-government in theory and in practice.

By August 1839, Lord John Russell replaced Lord Normanby as the Secretary of State for War and the Colonies, and one of his first actions was to appoint Charles Poulett Thomson, a long-time Member of Parliament and Cabinet Member by virtue of his position as President of the Board of Trade, as the Governor General of British North America. Thomson, 40 years old at the time of this appointment, had recently turned down the position of Chancellor of the Exchequer. He viewed the governorship as an opportunity to advance his career and to implement reforms in a way that was not possible in Britain due to what he perceived as hyper-partisanship in the House of Commons.<sup>18</sup> Success in the Canadas would result in a peerage for Thomson, and in obtaining settler support for the union measure he would have the opportunity to devise the best form of union and the terms of the new constitution.<sup>19</sup> The final version of the bill was informed by Thomson's experience in the Canadas, allowing Upper Canadians the opportunity to shape their constitutional future, an opportunity of which they would take full advantage.

Upon hearing of the appointment of a new Governor General the press in Upper Canada sought any news they could find about him, as well as information about his plans for their political and constitutional future. He was described by the Conservative candidate in his former constituency of Manchester as a man of superior ability, whom he

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<sup>18</sup> Phillip Buckner, "THOMSON, CHARLES EDWARD POULETT, 1<sup>st</sup> Baron SYDENHAM," in *Dictionary of Canadian Biography*, vol. 7, University of Toronto/Université Laval, 2003-, May 10, 2017; Ian Radforth, "Sydenham and Utilitarian Reform" in *Colonial Leviathan: State Formation in mid-nineteenth-century Canada* (Toronto: University of Toronto Press, 1992), 65.

<sup>19</sup> Radforth, "Sydenham and Utilitarian Reform," 70.

hoped would be able to secure an outcome to the “perfect satisfaction both to the parent country, and the colonies, that they continue united and mutually support each other’s interests for many years to come.”<sup>20</sup> The relationship between the Canadas and Britain was understood by this British politician from Manchester as reciprocal and enduring, a recurring idea throughout the debates in the settler public sphere, and among British participants in the union debates. Thomson was recognized by his Cabinet and parliamentary colleagues as a talented parliamentarian and administrator; experiences he would have to draw on in the Canadas.

Though the focus of debate had shifted from the *Durham Report* to a proposed *Bill of Union*, the Rebellion and Durham debates continued to exert an influence over the settler public sphere. Settlers on both sides of the union debates connected the measure to Durham. Opponents of union, who tended to be Tories with connections to the Family Compact, used this tactic as they sought to connect the unrest in the colony to Durham and Reformers. In one example of this, Ogle R. Gowan, one of the most vocal Upper Canadian conservatives, argued “so far as Lord Durham advocates a Union of the Canadas, vote by ballot, universal suffrage, annual parliaments, district councils, or any species of democracy, inconsistent with our constitution, either at home, or here, I dissent from His Lordship’s Opinions.”<sup>21</sup> Gowan connected union with Durham and democracy, considered oppositional to British modes of governance, which were based on mixed monarchy and a public opinion based on deliberation rather than majority rule. The perceived connection between Durham and Thomson was celebrated by Reformers, who rejoiced in reports that their new Governor agreed with concepts articulated in the

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<sup>20</sup> *Chronicle and Gazette – Kingston Advertiser*, October 5<sup>th</sup>, 1839.

<sup>21</sup> *Chronicle and Gazette*, October 5<sup>th</sup>, 1839.

*Durham Report*. The Reform press actively connected him to the Durham movement, sharing a comment reportedly given by Thomson to the *Colonial Gazette*, that he believed “the only complete remedy for deep rooted abuse, is the union of Upper Canada with the Lower Province, whereby one powerful colony would become respectable in the eyes of both the authority of home and in the neighbouring States.”<sup>22</sup> Rather than two colonies struggling with political and economic instability, they would be consolidated into a single province, with a more effective system of government. Additionally, it seemed to vindicate the Reformers’ belief that the problems of the province were rooted in the maladministration of the Family compact. Thomson, however, believed that partisanship in general was responsible and refused to attach blame to just one party.

The Rebellion influenced the language employed by settlers, and arguments were framed in the language of loyalty and commitment to the connection with empire. The Kingston-based *Chronicle and Gazette* charged Reformers with falsely reporting on the condition of Upper Canada, and accused them of “intimidating His Excellency into the adoption of their republican schemes of responsible government”, and subsequently charged “the Durhamite press as dishonest and disreputable.”<sup>23</sup> Rather than referring to them as Reformers, they chose to connect them to Durham and republicanism by calling them Durhamites. Both of these were highly political choices, intended to discredit the Reformers’ ability to participate in the rational political debate required by the British constitution. As McNairn demonstrates, the question of who was deemed capable of participating in public debate was an important part of the construction of the Upper

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<sup>22</sup> *St. Catherines Journal*, October 6<sup>th</sup>, 1839; *Brockville Recorder and the Eastern*, October 17<sup>th</sup>, 1839.

<sup>23</sup> *Chronicle and Gazette*, November 2<sup>nd</sup>, 1839.

Canadian public sphere.<sup>24</sup> By 1839, the Reform press was resurgent after a period of relative silence, and the remaining active newspapers active were more careful to express opinions that fit within the framework of British constitutionalism. Reformers did not concede this intellectual space to the Tory press, and contended that the true threat to the province lay with failure to reform, describing their position as “true loyalty” and identifying as “constitutional reformers.”<sup>25</sup> In this context, loyalty required not just accepting the status quo of the colonial constitution, but continually improving it to more closely resemble the British constitution they were promised.

Discussion of union would not wait for Thomson to arrive in the Canadas. It began with the Durham meetings and continued into the fall, in anticipation of the new Governor General’s arrival. A letter addressed “To the Unionists of Canada” argued that a union of the two provinces “a real and complete union – a thorough amalgamation” was “not an end, but a means to every end.”<sup>26</sup> They claimed through union Canada would acquire respect from the two imperial powers that influenced Upper Canadian thought, acquire responsible government, systematic immigration, and widespread personal prosperity. The author of this letter argued that there would be very little opposition to the measure in British Canada, which demonstrates that even in this vision of union that included responsible government the relationship with Britain would continue. The likelihood of union being implemented was echoed by the *Chronicle and Gazette*, and with news of Thomson’s arrival in Lower Canada it was anticipated that it would arrive quickly.<sup>27</sup> Support for union seems to be far more widespread than the historiography

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<sup>24</sup> McNair, *The Capacity to Judge*, 206.

<sup>25</sup> *Brockville Recorder*, October 24<sup>th</sup>, 1839.

<sup>26</sup> *Brockville Recorder*, October 31<sup>st</sup>, 1839.

<sup>27</sup> *Chronicle and Gazette*, November 6<sup>th</sup>, 1839.

would suggest, as it was believed “unless some sudden change has taken place in the sentiments of the members of the last session, no great obstacle will be thrown in the way, as at least two thirds of them are known to be in favour.”<sup>28</sup> To the editors of the *Chronicle*, this was not something to be lamented, as they argued that “in union is strength, and in many points of view the bringing together of this Province, which never perhaps ought to have been separate could be a most desirable object.”<sup>29</sup> Their support was not without reservation, but, as Britons, they lay their trust in imperial Parliament to act in their best interests. In the arrival of the new Governor, Reformers and moderate Tories saw an opportunity to advance their interests and believed the realization of union was a good and almost certain outcome that would help them achieve their ends, which were far more complicated than simply oppositional to each other.

Despite these reports, Thomson anticipated strong opposition from Upper Canadian settlers, and arrived in Upper Canada less than a week after gaining the support for the union measure from the Special Council of Lower Canada. With the resumption of the prorogued Parliament, Thomson called their attention to the union measure, demonstrating the central place it held in his, and the Whigs’, policy for the Canadas. His speech from the throne highlighted the key aim of the measure, which was “to maintain the connection now subsisting between Her North American possessions and the United Kingdom,” and his intention to introduce the reunion measure for the considerations of both houses at the earliest opportunity.<sup>30</sup> In the response from the

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<sup>28</sup> *Chronicle and Gazette*, November 9<sup>th</sup>, 1839; see also the *Brockville Recorder*, December 6<sup>th</sup>, 1839 for one report on the general sentiment of Upper Canada regarding union. Gerald Craig, *The Formative Years*, 270; Chris Moore, *1867*, 250.

<sup>29</sup> *Chronicle and Gazette*, November 16<sup>th</sup>, 1839.

<sup>30</sup> *Journal of the Legislative Council of Upper Canada, Fifth Session of the Thirteenth Provincial Parliament of Upper Canada December 3<sup>rd</sup>, 1839 – July 10<sup>th</sup> 1840* (Toronto: British Colonist Office, 1840), 6.



Legislative Council, they promised their “best consideration,” and repeated the desire for their position within the British Empire to be secured in any settlement of the Canada crisis.<sup>31</sup> They also took the opportunity to reassure the Governor General that he did not “appeal to loyalty and good sense of this province in vain,” and that they would work to ensure the peace and prosperity of the province.<sup>32</sup> Loyalty, peace, and prosperity were interconnected and contingent on each other, demonstrating the conditional nature of Upper Canadian loyalism. The promise of loyalty and careful deliberation was an important one, and illustrates the development of what Jeffrey McNairn identified as deliberative democracy.<sup>33</sup> The throne speech was also commended by the colonial press, as some editors claimed “men of all parties appear to pronounce it an excellent document, written in the moderation, good taste and what it is better, conceived in the right spirit.”<sup>34</sup> The highly anticipated measure to resolve the crisis in the Canadas had finally arrived, and as predicted, included the reunion of the Upper and Lower Provinces.

Thomson decided to meet the Legislature without calling for an election, a decision that illustrates some of the key constitutional debates raging just beneath the surface of the union measure. This decision by Thomson appears to have been made very early in his administration of British North America; in a dispatch to Lord John Russell sent in early November, he dismissed the need to submit the questions proposed by the British government to a new colonial Assembly, summoned “*ad hoc*” specifically to discuss the union.<sup>35</sup> By calling the existing legislature, union could be enacted more

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<sup>31</sup> *Journal of the Legislative Council*, 9.

<sup>32</sup> *Ibid.*, 9

<sup>33</sup> Jeffrey McNairn, *The Capacity to Judge*.

<sup>34</sup> *Kingston Chronicle*, December 7<sup>th</sup>, 1839.

<sup>35</sup> Charles Poulett Thomson to Lord John Russell, 1<sup>st</sup> November 1839.

quickly, ending the era of instability and stagnation plaguing the Canadas. Additionally, an election could be called if the majority of the House was found to be opposed to the measure. The Reform press were extremely dissatisfied, as they had been hoping for an election where they would test whether “the people of Upper Canada prefer the Tory Compact to the British Constitution.”<sup>36</sup> Toryism and the British constitution were presented as oppositional, with the choice in the election being either the Tory Compact or the British Constitution. Reformers argued that Canadian Toryism was “inimical to rational liberty, and a species of intolerant despotism, never to be borne by another than those whom circumstances have doomed to a state of the most abject slavery. It is averse to the freedom of the subject,” and thus to the principles that the British constitution was said to ensure for the colonies.<sup>37</sup> Despite being described in this light the compact Tories sought to secure the continuation of the *Constitutional Act, 1791*, and their interpretation of the British constitution. The desire for an election was far from universal and some settlers believed that it would have been unusual and improper to hold one, unless there was a serious divide between the imperial and colonial assemblies.<sup>38</sup> Conservative papers portrayed Reformers as radicals and rebels, and believed the bulk of the colony would support the “conservative interests of the colony,” which was to maintain the existing British Constitution.<sup>39</sup> In this way, political debate was framed around competing understandings of the British constitution, a point demonstrated by both Carol Wilton and Jeffrey McNairn.<sup>40</sup> The timing of an election in

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<sup>36</sup> Reprinted from the *Upper Canada Herald* in *Brockville Recorder*, December 12<sup>th</sup>, 1839.

<sup>37</sup> *St. Catherines Journal*, June 1839.

<sup>38</sup> *Chronicle and Gazette*, November 13<sup>th</sup>, 1839.

<sup>39</sup> *Chronicle and Gazette*, November 13<sup>th</sup>, 1839; *Niagara Chronicle* copied in *Niagara Herald*, December 24<sup>th</sup>, 1840.

<sup>40</sup> Wilton, *Popular Politics*, 18.

relation to a constitutional change was an important question to reform, and relied on the assumption that the franchise was capable of deciding on the policy. In the colonial setting, this would involve a devolution of authority from imperial Parliament and the recognition of the settler public as a legitimate source of authority. Similar questions were raised in the Confederation debates and, once again, an election was not called prior to the enactment of a major constitutional change.

Four days after the Speech from the Throne, Thomson directed the attention of the House of Assembly and the Legislative Council to the subject of union, as recommended by Her Majesty to Parliament. Thomson's introduction of the bill revealed his vision for the union of the Canadas, which, in addition to restoring constitutional government to Lower Canada, included three major features. Firstly, to "relieve the financial embarrassments of Upper Canada," namely a sizeable public debt, in order to "enable her to complete her public works and develop her agricultural capabilities."<sup>41</sup> Union was presented as a means to end permanently Upper Canada's revenue struggles, by allowing a joint legislature to administer the collection of taxes and other revenues at the ports of Montreal and Quebec. This change would secure funding for public works and agricultural improvement, these priorities indicated how central farming was to the settler political economy. Secondly, Thomson envisioned a "firm and impartial government for both", guided by the Governor and avoiding the traps of party.<sup>42</sup> Thirdly, and perhaps most significantly, union would "unite the people in one common feeling of attachment

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<sup>41</sup> *Journal of the House of Assembly of Upper Canada from the Third Day of December, 1839 to the Tenth Day of February, 1840 in the Third Year of the Reign of Queen Victoria; Being the Fifth Session of the Thirteenth Provincial Parliament*, (Toronto: Robert Stanton, Printer to the Queen's Most Excellent Majesty, 1840), 17.

<sup>42</sup> *Journal of the House of Assembly*, 17.

to British Institutions and British connexion.”<sup>43</sup> The sentiment that was intended to unify the province was Britishness, and continued attachment to Britain and the Crown. This Britishness, while contested, was decidedly English in nature. Not only was Upper Canadian society envisioned as a “Better Britain,” as demonstrated by Cecilia Morgan, but specifically as an improved England.<sup>44</sup>

To achieve the ends outlined above, Thomson proposed three areas of discussion: equal representation for each province, the grant of a sufficient civil list, and debt as a responsibility of the joint legislature and therefore of both colonies. These formed the basis of resolutions introduced into the Legislative Council by Robert Baldwin Sullivan, and into the House of Assembly by the Solicitor General, William Henry Draper.<sup>45</sup> The resolutions approving the proposed union garnered opposition from its Tory members, which was far more dogged in the House of Assembly than in the Legislative Council, with multiple amendments introduced, intended to prevent its approval. The Legislative Council passed all three of the resolutions without amendment, with fourteen in favour and eight opposed. However, as Thomson notes in his dispatches, there was an amendment proposed to “negative unconditionally the reunion of the provinces,” an expression of unconditional opposition to being united with Lower Canada, but he cheerfully reported that only four members could be found to support it.<sup>46</sup> The clear majority offered by the Legislative Council reinforced Thomson’s belief that the union

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<sup>43</sup> Ibid., 17.

<sup>44</sup> Cecilia Morgan, *Building Better Britains? Settler Societies Within the British Empire 1783-1920* (Toronto: University of Toronto Press, 2016).

<sup>45</sup> “Copy of a Despatch (No. 21) from the Rt. Hon. Charles Poulett Thomson to Lord John Russell”, December 14<sup>th</sup>, 1839, in *Copies or Extracts of Correspondence Relative to the Reunion of the Provinces of Upper and Lower Canada*.

<sup>46</sup> Ibid.

would be mutually beneficial for Upper Canada and Great Britain, bringing it closer to the reciprocal relationship imagined in the union debates of the 1820s.

The eight dissenting members all registered their protests, listing their reasons for voting against the measure. John Strachan, the Bishop of Toronto, one of the leading members of the Family Compact, opposed the union because of the perceived threat Roman Catholics would pose in the United Legislature and because he believed the timing for union was incorrect. Before Upper and Lower Canada could be reunited, Lower Canada must become “a British colony,” “the laws of England should be introduced, and British institutions encouraged,” which would make the union far less dangerous.<sup>47</sup> British and English are employed by Strachan interchangeably, demonstrating the centrality of Englishness to his understanding of Britishness. The other members of the Legislative Council who opposed union – Elmsey, JS Macauley, John Willson, Vonkoughnet, McDonnell, and Allan– shared several key objections. The primary concerns were that it would lead to the separation of the Canadas from the parent state, that the province would be too large to govern in a way that allowed for its development and prosperity, and the loss of the “Constitution of this province established by the 31 Geo III. Ch. 31, which has been our pride and boast”.<sup>48</sup> Opponents and proponents of union both believed they were attempting to secure the British constitution for Upper Canada demonstrating the flexibility of arguments employed by settlers, as well as the contested meanings of Britishness and the British constitution. The flexible

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<sup>47</sup> *Journal of the Legislative Council*, 24.

<sup>48</sup> *Journals of the Legislative Council*, 23-26.

and contested understandings of Britishness have been clearly demonstrated in recent studies of Upper Canadian settler society.<sup>49</sup>

In place of union, opponents in the Legislative Council suggested two alternatives. First, that an election should be held “before the enactment of any law depriving the people of Upper Canada of a separate legislature, an appeal to them by a dissolution of the present House of Assembly is no more than their rightful due.”<sup>50</sup> Tories were willing to recognize public opinion as a legitimate source of authority, though not directly, especially if they thought it would support their cause. This implicit acknowledgement of settler public opinion supports McNairn’s arguments about the lessons of the 1836 election drawn by the editors of Kingston’s *Chronicle and Gazette*.<sup>51</sup> Public opinion was not the only constitutional principle involved in this argument. This argument was built on the assumption that the Upper Canadian House of Assembly, not the British Parliament, should decide on issues of constitutional change, an important challenge to the imperial constitution. Further, that members of the House of Assembly were not simply trustees acting upon their understanding of the best interests of the colony, but also agents of their constituents who respected the right of that public to express their opinion on questions this fundamental. Whether based on principle or fear of losing future elections and influence, politicians were forced to account for public opinion. Their second recommendation was to incorporate the city of Montreal into Upper Canada, thus removing the major weakness of Upper Canada, its massive public debt and inability to directly collect duties and customs revenues.

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<sup>49</sup> Cecilia Morgan, *Building Better Britains*, xxv. Wilton, *Popular Politics* and McNairn, *The Capacity to Judge* also discuss the flexibility and importance of references to the British constitution and Britishness.

<sup>50</sup> *Journals of the Legislative Council*, 24.

<sup>51</sup> McNairn, *The Capacity to Judge*, 201.

In the House of Assembly union was highly contested, with members of the Tory compact faction introducing amendments to two of the four resolutions introduced by Draper on behalf of the government. Thomson regarded these as dilatory measures because he believed that a majority of House members supported a union.<sup>52</sup> The first resolution considered by the House read that they support the creation of a united legislature, the establishment of an “impartial and vigorous government for both,” to “unite the people within them in one common feeling of attachment to British institutions and the British connexion,” to consider how union could be effected to secure good government and a permanent connection of the colonies to the British Crown.<sup>53</sup> Attempting to defeat the measure and to register their dissent, William Benjamin Robinson, brother of the Chief Justice and staunch Tory in his own right, introduced an amendment that declared that after “careful deliberation,” this House could not support any reunion that would endanger Upper Canada or its interests.<sup>54</sup> This amendment was handily defeated, with the lines of division falling exactly where the press had predicted.<sup>55</sup> Immediately after the defeat, another Tory, John S. Cartwright, proposed another amendment that attempted to attach the original conditions set out in the previous session that were outlined and discussed in Chapter Three.<sup>56</sup> This amendment was also defeated, though by a smaller margin, and the result of the vote on the original motion was overwhelmingly in favour, with a majority of forty-seven of the fifty-three members in attendance supporting the resolution. The process was repeated for the second

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<sup>52</sup> Private Correspondence, *Charles Poulett Thomson to Lord John Russell*, 39.

<sup>53</sup> *Journals of the House of Assembly*, 57-58.

<sup>54</sup> *Journals of the House of Assembly*, 58.

<sup>55</sup> *Chronicle and Gazette*, December 18<sup>th</sup>, 1839.

<sup>56</sup> *Journals of the House of Assembly*, 59.

resolution, which proposed an equal representation for each province in the United Legislature. This time, the Tories tried a different tack. First, Henry Sherwood suggested a slight majority of representatives from Upper Canada, to ensure the United Legislature maintained a British character. Failing that, they attempted to call for an immediate election, a move that acknowledged the shifting source of legitimacy in the province, but one that was rejected by the House. The third resolution, pertaining to the creation of the civil list passed with some opposition, but no amendments. Unsurprisingly, the fourth, which made the United Legislature responsible for Upper Canada's debt, was approved unanimously.<sup>57</sup>

The settler press covered the debates in the legislature closely. Though the opposition of leading members of the Family Compact such as the Attorney General C.A. Hagerman was noted, and their arguments printed, the evidence in the newspapers suggest significant popular support for union that does not support the claim of widespread anti-union sentiment that has dominated the historiography of Upper Canadian politics and informed Confederation and constitutional histories. While newspapers were politically motivated and not necessarily perfectly representative of public opinion, they do provide important insight into how settlers understood the debates in which they engaged; the work of historians of the public sphere allows and encourages this revisiting of material, taking seriously the ideas and motivations of settlers who supported the union.<sup>58</sup> As discussed earlier in this chapter, newspapers began discussing

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<sup>57</sup> *Journals of the House of Assembly*, 60.

<sup>58</sup> Carol Wilton, *Popular Politics and Political Culture in Upper Canada 1800-1850* (Montreal: McGill-Queens University Press, 2000); Jeff McNairn, *The Capacity to Judge: Public Opinion and Deliberative Democracy in Upper Canada, 1791-1854* (Toronto: University of Toronto Press, 2000). See also: Michael Eamon, *Imprinting Britain: Newspapers, Sociability and the Shaping of British North America* (Montreal & Kingston: McGill-Queens University Press, 2015) for the broader British North American context.



the widespread support for union even before the arrival of Charles Thomson in Upper Canada, and once the debates began in the legislature this was repeated and amplified. For example, a “general feeling in favour of Union, is now spreading over the Upper Province, and the inhabitants of Kingston, at their meeting last week, passed a resolution in its favor, as did the freeholders assembled at the meeting in the county of Simcoe.”<sup>59</sup> Referencing public meetings in Kingston and Simcoe, traditionally understood as conservative areas of the colony, *The Brockville Recorder* is making a careful point to demonstrate the appeal of the measure of union from unexpected sources. The claim of widespread support is advanced further as they asserted four-fifths in the province were in favour of union and the only disagreement was over the details.<sup>60</sup> The likelihood of union receiving the legislature’s sanction was also recognized by conservative sources, who anticipated the resolutions introduced by Draper into the House of Assembly would pass without amendment.<sup>61</sup> The *Chronicle and Gazette* was more likely to defend opponents of union, but for the most part seemed to support the measure itself.

The initial responses to the passing of resolutions in support of union within the Upper Canadian press appear to be primarily optimistic and supportive of the measure. Positive mentions of its passing were made throughout the press, and illustrate the hopes for its success.<sup>62</sup> The Reform press highlighted that the government measure was carried by opposition members and one newspaper declared that “the liberal members adhered to the position most manfully in support of the measure.”<sup>63</sup> Masculinity was linked to

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<sup>59</sup> *Brockville Recorder*, December 5<sup>th</sup>, 1839.

<sup>60</sup> *Brockville Recorder*, December 19<sup>th</sup>, 1839.

<sup>61</sup> *Chronicle and Gazette*, December 18<sup>th</sup>, 1839.

<sup>62</sup> *British Colonist*, December 24<sup>th</sup>, 1839; *Examiner*, December 24<sup>th</sup>, 1839; *Kingston Chronicle*, January 1<sup>st</sup>, 1840, *Brockville Recorder*, January 2<sup>nd</sup>, 1840, *St. Catherines Journal*, January 2<sup>nd</sup>, 1840.

<sup>63</sup> *British Colonist*, December 24<sup>th</sup>, 1839.

maintaining a particular position, and union was itself associated with liberty and justice which were virtues associated with idealized masculinity. To Reformers it signalled an important victory, in which they claimed, “justice has triumphed, constitutional liberty, long denied the people by the official party will shortly be enjoyed by a contented, loyal, and rapidly increasing population.”<sup>64</sup> Once again loyalty and liberty are linked, the experience of one being the condition for the other. Additionally, it was this combination that allowed for the increase in population and the growth of the settler state in Upper Canada. By building on the union measure and working with the Governor General, they envisioned the construction of a political community in Canada “by the side of the Great Republick, an empire of British freemen – the idea of rational liberty, and the asylum of the oppressed.”<sup>65</sup> Well aware of their position on the border of the American empire, settlers believed that their distinct form of liberty and status as British would provide an important contrast. Additionally, the choice of “empire” to describe the Upper Canadian political community is significant and may be a reference to Upper Canada as an extended but integral part of the British empire.

Despite feelings of hope, there remained a considerable degree of apprehension, especially over the future relationship between Upper Canada and the parent state. Their imagining of this relationship consisted of two key components. First, a mutually beneficial relationship protected by union would secure the interests of the Canadas, but with “every necessary safeguard to the maintenance of British interests, and British supremacy.”<sup>66</sup> Second, the principles of the British constitution must be maintained: a

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<sup>64</sup> *St. Catherines Journal*, January 2<sup>nd</sup>, 1840.

<sup>65</sup> *St. Catherines Journal*, January 2<sup>nd</sup>, 1840.

<sup>66</sup> *St. Catherines Journal*, January 30<sup>th</sup>, 1840.

representative government, under a monarchy, with a permanent connection to the British empire.<sup>67</sup> It was scepticism about these conditions being met and doubts about the continued connection that led C.A. Hagerman to oppose union. The *Chronicle and Gazette*, despite the editors being reservedly in favour of union, published his speech and rationale. They also criticized the *Montreal Gazette*, whose editors had themselves criticized Hagerman for supporting the measure solely because it was proposed by the government, grouping him with Robert Baldwin Sullivan and John Macaulay. Macaulay and Baldwin Sullivan had expressed reservations about union, but supported the measure once it was actually presented. Intellectual and political independence was a crucial virtue to Upper Canadians and Hagerman felt the need to defend his actions to demonstrate that he opposed the measure fully. Prior to the vote, Hagerman had informed Thomson of his intention to oppose it, as he believed the very integrity of empire was at stake, with the union of the Canadas placing the connection with the parent state in “imminent peril.”<sup>68</sup> He argued that the majority of the colony would not want to risk separation from the empire, as their membership within it had been the source of their “pride and boast,” a recurring theme in anti-union arguments. He concluded by stating that he hoped to be wrong and that “the warmest advocates of the measure and of the benefits to my native country might never be disappointed.”<sup>69</sup> Referring to the settler society of Upper Canada as their native country was increasingly common and reflected the continued growth of a distinct community. The concerns of Hagerman were echoed by John Beverly Robinson in London and later by Sir Francis Bond-Head, who attempted

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<sup>67</sup> Ibid.

<sup>68</sup> *Chronicle and Gazette*, January 11<sup>th</sup>, 1840. Hagerman uses England and Britain interchangeably in his address.

<sup>69</sup> Ibid.

to block the measure through the House of Lords. This was the last major political conflict for Hagerman, as he would finally accept an appointment to the bench, allowing Thomson to appoint William Henry Draper as Attorney General and Robert Baldwin the Solicitor General moves that were not without their critics.<sup>70</sup>

In proroguing Parliament, Thomson recognized the significance of the brief legislative session over which he had presided, as it addressed both union and the Clergy Reserves, two issues that had long featured in Upper Canadian political debate.<sup>71</sup> He closed the session satisfied with the outcome of the union debates and believed that if Parliament followed through with the settlement quickly, the outcome would be positive, whereas any delays could prove fatal to the continued connection.<sup>72</sup> Lord John Russell, replying to Thomson's dispatches, could not help "but anticipate the happiest results from the unanimity which has prevailed in both House of the Legislature."<sup>73</sup> The overwhelming votes in the House of Assembly and Legislative Council, as well as extracts of settler newspapers sent by Thomson to Lord John Russell to prove the widespread support for the union measure, are difficult to reconcile with the existing historiography.

Thomson also made important suggestions for fixing flaws with the bill, particularly the provisions that provoked the greatest opposition in the Canadas. These revisions included: allowing the Governor General to decide the timing of the declaration; constituting the Legislative Council in accordance with the *Constitutional*

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<sup>70</sup> Charles Poulett Thomson to Lord John Russell, February 13<sup>th</sup>, 1840 in *Letter from Letter Sydenham* ed. Paul Knaplund. Thomson jokingly claimed this to be among his greatest achievements, as Hagerman had rejected the offers of three Governors to join the bench.

<sup>71</sup> *Chronicle and Gazette*, Feb. 12<sup>th</sup>, 1840.

<sup>72</sup> Copy of Despatch from Right Honourable C. Poulett Thomson to Lord John Russell, February 11<sup>th</sup>, 1840.

<sup>73</sup> Copy of Despatch from Lord John Russell to Right Honourable C. Poulett Thomson, February 3<sup>rd</sup>, 1840.

*Act*, 1791; having the Assembly consist of 76 members, with 38 from each province; a minimum property qualification for members of the house at £500; not separating Gaspe from Quebec; allowing debates in the Legislature to occur in either English or French; and merging revenues on January first, the year after union had been effected.<sup>74</sup> Many of these provisions were included in the final bill and Thomson believed that he provided an all but completed product, with the British government only needing to add what he referred to as “money clauses,” primarily concerning the civil list and issues of intercolonial trade.<sup>75</sup> The union bill had shifted from its original form as a Durhamite construction to a Thomsonian measure, that in his view would secure Canada’s place in empire and the continued development of a settler society. This faith was echoed in the settler press, who declared “the loyalty of the people of Upper Canada is yet unsubdued; their affection for the land of their ancestors and their birth remains unshaken.”<sup>76</sup>

Simultaneous to the union debates in the Upper Canadian public sphere, the Chief Justice, John Beverley Robinson, still in London, did not sit idly by.<sup>77</sup> Robinson, at this point was well established as the Chief Justice of Upper Canada and at forty-eight years old was not looking to advance his career in London, Phillip Buckner argued that lacking this motive shaped Robinson’s stronger and more explicit opposition to this attempt at union.<sup>78</sup> His presence in London was noted by the settler press and especially by Reformers, who argued that “Canadian reason and justice will scarcely be listened to in

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<sup>74</sup> Copy of a Despatch from Right Honourable C. Poulett Thomson to Lord John Russell, January 22<sup>nd</sup>, 1840.

<sup>75</sup> *Letters from Sydenham to Lord John Russell*. ed. Paul Knaplund January 23<sup>rd</sup>, 1840, 45

<sup>76</sup> *Chronicle and Gazette*, February 12<sup>th</sup>, 1840.

<sup>77</sup> The first part of Robinson’s pamphlet *Canada and the Canada Bill* was discussed in Chapter Three, as it directly addressed the Durham Report. The second part of his pamphlet, explored in this Chapter, takes aim at the scheme for a united Canada.

<sup>78</sup> Phillip A. Buckner, *Transition to Responsible Government*, 103, 256.

England unless they send an advocate to speak for them” since John Beverley Robinson and “John Toronto” were in London and able to oppose the measure.<sup>79</sup> Canadian justice is separated from English justice, and it is England, not Britain that serves as their frame of reference. Additionally, Robinson is presented not as a representative of Upper Canada, but of the Tory compact. His opposition to the proposed *Bill of Union* of 1839, along with Thomson’s recommendations shaped the *Act of Union, 1840*. The arguments he employed have important implications for understanding Upper Canada’s political culture, especially how loyalty, liberty, and Britishness combined in a form of settler nationalism that combined a British, and specifically English identity, with a distinctly Upper Canadian one.

Robinson identified four major changes that would result from the proposed measure. First, that it would make one province out of two; second that it would alter the constitution of the Legislative Council in an unprecedented manner; third, that local government as described in the bill, with powers of taxation and spending, would produce a quasi-federal system; and fourth, that the Colonial Legislature would have the power to alter its constitution that previously was “subject to alteration by imperial Parliament only.”<sup>80</sup> Even without formal changes to the written constitution, the principles behind the colonial and imperial constitutions were being altered, producing a shift towards the formal implementation of colonial self-government. This shift accompanied a growing settler consciousness, facilitated by a developing public sphere that increasingly required the incorporation of public opinion into constitutional theories

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<sup>79</sup> *Brockville Recorder*, October 31<sup>st</sup>, 1839. By the time Robinson published his pamphlet Bishop Strachan “John Toronto” had returned to Upper Canada, opposing the measure in the Legislative Council.

<sup>80</sup> John Beverley Robinson, *Canada and the Canada Bill*, 89.

and political arguments. The union debates marked “a most important era for these colonies,” one which would decide whether they would remain secure and prosperous possessions of the British Crown, or “lead to consequences fatal to their tranquility, and even destructive of their connexion with the British Crown.”<sup>81</sup> The significance of the potential union and of the new constitution of Canada was widely recognized in the settler public sphere. Additionally, Robinson’s linking of prosperity, tranquility, and connection with the British crown is significant. It demonstrates that the foundation of loyalty was conditional, contingent on the enjoyment of benefits that English law and justice were supposed to secure.

His opposition to the *Bill of Union* was rooted in his narrative of colonial and British history. This approach allowed him to critique one of the fundamental assumptions of the Colonial Office, that the separation of the provinces and the subsequent failure to unite them in 1822 was the cause of the Rebellions. Robinson rejected this analysis and argued that the majority of the people of Upper Canada were loyal and the Rebellion had been provoked by only a small portion of the population. Union would not improve things, and of the *Bill of Union 1822*, he said “speaking with much deference, I think it was unwise to have ever been proposed.”<sup>82</sup> Even in a statement as strong as this one, he was careful to employ the language of deference, one of the performative components of loyalty that allowed for the degree of practical independence that prominent, enfranchised Upper Canadians had come to expect. Robinson believed the union was a political ploy by the Melbourne government, based on a misdiagnosis of causes of the Rebellion and ill-advised treatment plan. He argued that

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<sup>81</sup> Robinson, *Canada and the Canada Bill*, 102.

<sup>82</sup> Robinson, *Canada and the Canada Bill*, 91, 93.

even if the problems stemmed from the division of the Canadas, resolving them was a far more complicated issue, a point he makes using an analogy to an illness: “a man may contract a pleurisy by imprudently throwing off his clothes but he will not remove the disorder by putting them back on again.”<sup>83</sup> It was common to use health analogies when discussing the welfare of the body politic, and this one is a part of Robinson’s challenge to the idea that the benefits of union were supposedly self-evident.

The separation of the Canadas was, in Robinson’s view, the reason for the development of a successful and prospering settler society in Upper Canada. It was only through separation that Upper Canada had been settled by “English people, with English laws,” and without this change Upper Canada “would have held in comparative thralldom a most fertile and interesting country, which, being delivered from the restraints, has sprung forward with surprising rapidity from a perfect wilderness to be one of the most valuable possessions of the Crown.”<sup>84</sup> Through an English character, Upper Canada was able to develop into a distinct settler society, which as Errington argues, was recognized by the settlers themselves.<sup>85</sup> Englishness and Britishness remained interchangeable in the Upper Canadian settler vocabulary, and that the English national identity occupied a privileged place within the settler imagination indicates what Britishness meant for them. Additionally, the rate of settlement, with the political economy structured around an agrarian society of yeoman farmers similar to that of England, was one of the central components of Upper Canadian settler nationalism.<sup>86</sup> The idea of the civilization of

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<sup>83</sup> Robinson, *Canada and the Canada Bill*, 97

<sup>84</sup> *Ibid.*, 100, 101.

<sup>85</sup> Jane Errington, *The Lion, the Eagle, and Upper Canada*, (Montreal: McGill-Queen’s University Press, 1987), 189.

<sup>86</sup> Henry Taylor, *Considerations of the Canadas*, 63



wilderness resulting in rapid economic and political development was central to the settler mythology of Upper Canada, and this articulation by Robinson demonstrates why it is insufficient to understand the settlers solely as provincial Englishmen or proto-nationalists. As with loyalty and liberty, these conditions are mutually constitutive, and informed the intellectual framework within which settler political thought took place.

As with the debates of the 1820s, Robinson drew analogies to Great Britain's unification processes, demonstrating the principle of consolidation through England's union with Scotland, and then Great Britain's with Ireland. Robinson's interpretation of Britain's unification process demonstrates the centrality of Englishness to his interpretation of Britishness. While using the same tactic of drawing on the lessons of British history, instead of focusing on Scotland's union with England, he focused on the implementation of union in Ireland, a decision likely inspired by the context of the rebellions. In the 1820s, union had been considered as a result of trade disputes, while the union debates of the 1830s became an important moment of state formation because it followed a major insurrection and challenge to British imperial rule.<sup>87</sup> To demonstrate the absurdity of uniting the two Canadas, he asked, "would it have been a wise, a safe or a justifiable measure to have proposed for the troubled state of Ireland, in 1798, that it should be united with Scotland alone, and one legislature given to the two kingdoms?"<sup>88</sup> In his analogy, Scotland represents Upper Canada, while Ireland, in its state of rebellion, instability, and un-British character, represented Lower Canada. He continued

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<sup>87</sup> Radforth and Greer "Introduction" in *Colonial Leviathan*, eds. Allan Greer and Ian Radforth, (Toronto: University of Toronto Press, 1992), 11; Radforth, "Sydenham and Utilitarian Reform" in *Colonial Leviathan*, 65; Ian McKay, "CHR Forum: The Liberal Order Framework", Reprinted in *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, eds. Michel Ducharme and Jean-François Constant (Toronto: University of Toronto Press, 2010), 632.

<sup>88</sup> Robinson, *Canada and the Canada Bill*, 130.

employing this analogy, revealing the fears felt by Upper Canadians by projecting them onto the hypothetical apprehension of Scotland, who he predicted would have felt used and unable to pursue their own interests.<sup>89</sup> Robinson's argument of the disastrous effects of union for Upper Canada remained unchanged from the 1820s, demonstrating continuity in the union debates, and was based on the fear of losing the British Constitution by being amalgamated with a colony that lacked the British, specifically English character of Upper Canada.

The comparisons drawn by Robinson also provide insights into the framework of settler debate, a form of settler nationalism that combined a sense of English provincialism with a distinct Upper Canadian colonial identity. He used the union with Ireland to demonstrate how union would function in practice and how the Canadian union would differ from those previously carried out in England. Robinson argued that "the effect of this bill would not be, as in the case of Ireland, to unite one distinct country with another in some of the arrangements of government merely, leaving them distinct as to other purposes, and by no means putting an end to their individuality. It makes the whole actually one country."<sup>90</sup> Ireland was able to remain distinct in some way from England, whereas in the Canadian context, the two Canadas would simply become Canada, one united polity. Though the loss of Upper Canadian distinctiveness was a major objection of Robinson's and of the settler Tories who opposed union in the colonial legislature, it appears to have been the intention of the framers of the measure and one that would be celebrated by supporters of union. This fear would turn out to be misplaced, as a system of duality quickly emerged in the united Canada. Yet, the fear expressed by Robinson

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<sup>89</sup> Ibid., 130.

<sup>90</sup> Ibid, 159.

and other Tories was a real driving force and demonstrates their dual identity as Britons and Upper Canadians.<sup>91</sup> Robinson's use of the constituent components of Britain to illustrate his point seems to support Phillip Buckner's argument that Robinson and other Upper Canadians should be understood not as some form of Upper Canadian nationalists as proposed by Terry Cook, but as English provincialists.<sup>92</sup> Upper Canada's distinctiveness was based on their English laws and character, but it is not sufficient to understand them solely as provincial Englishmen, as their politics and identities were shaped by the colonial setting. Separating English provincialism and Upper Canadian nationalism into competing and mutually exclusive identities does not fully capture the sentiment animating settler debate. Instead, they should be combined to be understood as a form of settler nationalism where the settler identity is based on identifying as a participating citizen of both the imperial polity and their distinct colony.

Robinson did not allow the opportunity to propose alternative solutions pass without comment, suggesting three options to the Colonial Office. The first possible alternative is one discussed in Chapter Three, the annexation of Montreal to Upper Canada, though in this articulation of the idea he makes it only temporary, lasting only until Lower Canadians had been sufficiently educated to prepare them for the English constitution.<sup>93</sup> Ideas of education and political sociability were closely linked not only in this pamphlet, but also throughout the settler public sphere, especially in the aftermath of the Rebellion. His second preferred alternative was the legislative union of all the provinces of British North America, which he viewed as less fundamentally dangerous

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<sup>91</sup> J.M.S. Careless, *Union of the Canadas*, 40.

<sup>92</sup> Phillip Buckner, *Transition to Responsible Government*, 99.

<sup>93</sup> Robinson, *Canada and the Canada Bill*, 136

than the union of just the Canadas.<sup>94</sup> The idea of uniting British North America was well established in the settler imagination at this time, and some, such as Charles Poulett Thomson, Robert Gourlay, and the editors of the *Chronicle and Gazette* viewed the union of the Canadas as a step towards the eventual consolidation of British North America into a single political entity still connected to the British crown.<sup>95</sup> The third alternative embraced the British imperial directive of divide and rule, in which he proposed dividing the Canadas into three separate colonies, Western Upper Canada to be governed from London, from Toronto to Montreal with Kingston as the capital, and the remainder of Lower Canada to be administered as a Crown Colony, without a representative assembly.<sup>96</sup> This was closely connected to the idea that the united Canada would be far too large to effectively govern, and continued settlement and growth would be most likely to be facilitated by smaller administrative units and a more proximate, and therefore more active government.

In order for Upper Canada to assent to the union, Robinson presented the same requirement as other Upper Canadian Tories: that sufficient provisions for protecting the British constitution be included. The British constitution in effect in Upper Canada was “as just, as liberal, as unexceptionable a constitution as any colony ever enjoyed.”<sup>97</sup> Changes that weakened or altered this constitution were viewed as unnecessary, destabilizing, and contributing to the eventual loss of the Upper Canada. In his view, the union as it was proposed was too republican and revolutionary and “is far too preposterous to be seriously entertained by any one in the least way acquainted with the

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<sup>94</sup> Robinson, *Canada and the Canada Bill*, 117.

<sup>95</sup> *St. Catherines Journal*, January 2<sup>nd</sup>, 1840; *Chronicle and Gazette*, February 5<sup>th</sup>, 1840.

<sup>96</sup> Robinson, *Canada and the Canada Bill*, 135.

<sup>97</sup> Robinson, *Canada and the Canada Bill*, 119.

principles of the British constitution.”<sup>98</sup> His main objections to the draft bill were: the implementation of elected district councils in a manner never before tried in England; two systems of law within a single polity; the strengthening of the democratic branch which would give the upper hand to Reformers; and the appointment of Legislative Councillors for eight years able to be dismissed by the Governor for political reasons.<sup>99</sup> These changes would mean the destruction of the British constitution for Upper Canada, and the implementation of a system that was distinctly un-English. The Colonial Office’s failure to construct a constitution based on tradition and experience was identified by Robinson as its greatest weakness, and would, if executed lead to the failure of the colony of Upper Canada, and the British imperial project in British North America. Loyalty and support for the English constitution was based on the enjoyment of liberties and prosperity that it provided, and could only be experienced simultaneously.

The suggestions made by Charles Thomson and John Beverley Robinson resulted in significant changes in what became the *Act of Union* of 1840. This Act was generally seen by settlers as a new constitution, and its final version took into account the feedback Upper Canadians provided in a way that previous attempts at the constitutional reform for the colonies did not. The overall purpose of the Bill was to ensure Canada’s stability and prosperity, which is highlighted in the preamble that declared its purpose to “secure the Rights and Liberties and promote the Interests of all classes of Her Majesty’s subjects,” with the provinces to be “re-united and form One Province” within fifteen months of the passing of the bill.<sup>100</sup> Unlike the *Bill of Union* of 1822, laws would be made for

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<sup>98</sup> Ibid., 116.

<sup>99</sup> Ibid., 134, 138, 141, 145.

<sup>100</sup> *An Act to Unite the Provinces of Upper and Lower Canada, and for the Government of Canada.* July 23<sup>rd</sup>, 1840.

governance of the whole colony, with no division of legislative authority within the colony. Property qualifications and the composition of the Legislative Council followed the recommendations of Robinson and the resolutions passed by the colonial legislature.<sup>101</sup> Members must be independent, and the franchise was imagined as exclusively male, though women who met property requirements were not explicitly excluded. Representation for each of the formerly separate colonies was to be equal, which benefited Upper Canada, with a significantly smaller, though rapidly growing settler population.<sup>102</sup> This was envisioned as a means to ensure English ascendancy in the House and additional seats in Lower Canada were introduced to increase the representation of the English-speaking population from that province, additions that were matched by an increased number of representatives from the Upper Province. The Governor would be able to choose the seat of government, which was unfixed. Thomson chose Kingston for the first meeting of the united legislature, a fact that the Kingston newspapers were happy to celebrate by taunting Torontonians.<sup>103</sup> Perhaps among the most significant powers, taxation and appropriation, were given to the colonial legislature, with exceptions where imperial commercial interests were involved.<sup>104</sup> The executive retained the power to introduce money bills, which Ajzenstat and Radforth demonstrated were central to the visions of Durham and Thomson for colonial administration.<sup>105</sup> The provision making taxation, other revenues, and appropriations the responsibility of the joint legislature addressed the long standing problem Upper

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<sup>101</sup> *Act of Union*, Sections 4, 5, 6, 18.

<sup>102</sup> *Act of Union*, Section 8

<sup>103</sup> *Act of Union*, Section, 30; *Chronicle and Gazette*. February 13<sup>th</sup>, 1841.

<sup>104</sup> *Act of Union*, Section 41, 50.

<sup>105</sup> Janet Ajzenstat, *The Political Thought of Lord Durham* (Montreal: McGill-Queens University Press, 1988), 59; Radforth, "Sydenham and Utilitarian Reform," 74.

Canadian problem of an enormous public debt without direct access to revenues. In doing so, the bill provided access to the financial means to continue large projects of infrastructure development needed to facilitate economic growth. The *Act of Union* reflected the implementation of a system devised by Durham, elaborated on by Thomson, and shaped by settler participation and support.

After winning the approval of the legislatures of both Upper and Lower Canada, the Bill passed through the House of Commons with the support of Tory and Whig members. Though the actions of the House of Lords were unpredictable it seemed doubtful that “it should be thrown out by that House, in opposition to the almost unanimous votes of the Commons, and contrary to the long-entertained hopes and expectations of the loyal inhabitants of Upper and Lower Canada.”<sup>106</sup> The Commons and hopes of settlers were separated, demonstrating their legitimacy as sources of authority. One of the largest fears of opponents of the measure was that union would lead to the separation of the Canadian colonies from British empire.<sup>107</sup> This fear was challenged by supporters of union through an expression of settler nationalism. Settlers argued that “we are the same people, and entertain the same sentiments that actuated us in suppressing two unnatural rebellions; and after the Union, we trust it will be found no change will have come over us.”<sup>108</sup> They emphasized continuity, rather than change in their sentiments, believing the character of the province would not be altered by the union and that they “will ever abide by our allegiance, and with the Union Bill as our charter, and the British flag as our standard, no power on earth can separate us from our country.”<sup>109</sup> The Union

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<sup>106</sup> *Montreal Gazette*, July 23<sup>rd</sup>, 1840, copied in the *Chronicle and Gazette*, August 1<sup>st</sup>, 1840.

<sup>107</sup> Francis Bond-Head, *Address to the House of Lords* (London: W. Cloves, 1840), 49.

<sup>108</sup> *Chronicle and Gazette*, August 1<sup>st</sup>, 1840.

<sup>109</sup> *Chronicle and Gazette*, August 1<sup>st</sup>, 1840.

Bill was imagined as a means to maintaining the connection to Britain rather than as leading to a separation.

The *Act of Union* was approved by British Parliament with relatively little opposition in July of 1840, and Charles Poulett Thomson, successful in his mission, was awarded a peerage and became Lord Sydenham. Thomson's elevation to the peerage was viewed favourably in Upper Canada, and some claimed it should be celebrated throughout British North America, for it was his "zealous and judicious labour that the country owes the union of the Canadas, the knitting together of discordant elements in to the compact substance of a real British colony," a process which "consolidated the materials of an extensive and flourishing colony."<sup>110</sup> The idea of a consolidation was articulated by Durham, built on in the Durham debates, and implemented under Sydenham. This idea of consolidation was also explained using an analogy to the British unions of 1707 and 1801, though in a far more positive manner than as employed by Robinson despite drawing the same lessons. This process was viewed as a gradual and natural consolidation, "But what was the object of uniting Scotland to England, and Ireland to Great Britain? Just the same that has given rise to the current measure under consideration to unite in one deliberate and legislative body, the various interests of different race of man bound by one common tie of interest and national brotherhood."<sup>111</sup> England lies at the centre of this vision of empire, and demonstrates the continued centrality of Englishness to Upper Canadian understandings of Britishness. Additionally, it demonstrates the different and contradictory lessons drawn from the same historical

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<sup>110</sup> *St. Catherines Journal*, November 12<sup>th</sup>, 1840.

<sup>111</sup> *Chronicle and Gazette*, August 1<sup>st</sup>, 1840



events, as well as how settlers understood the process of consolidating the Canadas into a single polity which they imagined as a true legislative union like that of Great Britain.<sup>112</sup>

The *Act of Union* and accompanying debates marked a significant departure in the imperial constitution and colonial governance. Settlers perceived this shift, and some believed “a new era is about to dawn on British colonial history, and the recent troubles in the Canadas will yet be cited as having given the first impetus to it.”<sup>113</sup> These Upper Canadians saw the changes being made to their local constitution as affecting not just their own government, but that of the entire British imperial polity. According to them, the true nature of the colony could be seen through the conduct of the Canadians in the War of 1812 and in the suppression of the Rebellion, and that spirit was “common to every British colony, and a liberal and generous spirit by rendering it national; in other words amalgamating them in the most extended sense, the colonies with empire.”<sup>114</sup> The connection between the different colonies was a combination of loyalism, liberalism, all engaged in building societies replicating British institutions and laws.<sup>115</sup> This Britishness was defined by English laws and customs that placed Englishness at the centre of the settler identity.

This new era of colonial history involved responsible government and colonial self-government, based on the claim of devolution of power from “the Imperial Parliament – the supreme authority delegates to the peoples of Canada, the rights of a little sovereignty, with full power to legislate upon all their internal affairs, reserving only

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<sup>112</sup> William Ormsby, *The Emergence of the Federal Concept in Canada, 1839-1845* (Toronto: University of Toronto Press, 1969); and J.M.S. Careless, *The Union of the Canadas* demonstrate how this intention did not translate into reality in Upper Canada, and how a system built on quasi-federalist structures was able to emerge from the scheme.

<sup>113</sup> *St. Catherines Journal*, December 24<sup>th</sup>, 1840.

<sup>114</sup> *St. Catherines Journal*, December 24<sup>th</sup>, 1840

<sup>115</sup> Cecilia Morgan, *Building Better Britains*, (Toronto: University of Toronto Press, 2016)

such cases as may entrench upon imperial interests.”<sup>116</sup> In doing so, settlers could begin to claim to enjoy the full British constitution and increasingly successfully exert their agency in the shaping of their colony.<sup>117</sup> Some, however, viewed these claims as premature and even impossible, with the legislature of the united Canadas “assuming a right which belongs to the whole British nation.”<sup>118</sup> Canadians and Britons would thus be indistinguishable, represented in British Parliament as members of the British nation. The division of powers may seem like no more than an abstract constitutional question, yet the location of sovereignty is a fundamental question revealing the envisioned imperial relationship, national identity, and political culture. Though responsible government and self-government were not yet being formally recognized, the debate in the colonies and the recognition of the colonial legislature as a legitimate source of authority represented a significant shift in the imperial constitution.

The long awaited enactment of union, described as the beginning of a new political era for Canada finally came on February 10<sup>th</sup>, 1841, the anniversary of Queen Victoria’s marriage, a connection the Governor General, Lord Sydenham did not overlook.<sup>119</sup> According to Sydenham, “the destinies of the people of Canada are placed in their own hands, and at the coming Election we trust they will prove themselves worthy of the confidence reposed in them by the Imperial Government.”<sup>120</sup> This acknowledged a shift in authority from Britain to the colonies, and the ceding of increased autonomy to the settler administration. The reunion of the provinces was not

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<sup>116</sup> *St. Catherines Journal*, Jan. 28<sup>th</sup>, 1840.

<sup>117</sup> Jack Greene, “Introduction: Empire and Liberty”, in *Exclusionary Empire, 1600 – 1900*, Ed. Jack Greene, (Cambridge: Cambridge University Press, 2010), 22.

<sup>118</sup> Henry Taylor, *On the Forthcoming Union of the Canadas*, 13.

<sup>119</sup> *Chronicle and Gazette*, February 10<sup>th</sup>, 1840.

<sup>120</sup> *Chronicle and Gazette*, February 10<sup>th</sup>, 1841

understood as an imperial imposition, but as deriving from the wishes of Upper Canada, determined “through their constitutional organs, upon the great question of union itself, and on the principles on which it should be based.”<sup>121</sup> The measure may have originated with the British government, but it was enacted because it received the support of settlers in Upper Canada. In the process, settlers explicitly rejected the idea that they “should receive every act of the mother country with passive obedience,” arguing it was their right to decide their own fate.<sup>122</sup> The decision to accept union and the new constitution was their own.

The writs for the first election of a united legislature were dropped immediately following the proclamation of union, which remained an important part of settler debate. Candidates for election published their stances in local papers, and almost all of them discussed union in some form, explaining their position and their reasons for taking it. Tories such as Alan MacNab, the former speaker of the House, and George Rykert, a member of provincial parliament for the Niagara region, stood by their opposition to union. MacNab promised to, if elected, do all he could to “maintain the connection of this colony with the glorious Empire of which we now form a valuable portion.”<sup>123</sup> Rykert acknowledged his opposition to union, but believed it necessary to do all he could to work with Sydenham and to avoid “those unhappy results of which many of us were apprehensive.”<sup>124</sup> These arguments were common to Upper Canadian Tories, who sought to work within the system of union. The Reform press, however, was not willing to let

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<sup>121</sup>*Chronicle and Gazette*, February 10<sup>th</sup>, 1841; *St. Catherines Journal*, February 17<sup>th</sup>, 1841.

<sup>122</sup> *St. Catherines Journal*, November 12<sup>th</sup>, 1840.

<sup>123</sup> *Gazette and Chronicle*, August 12<sup>th</sup>, 1840.

<sup>124</sup> Henry Taylor, *Considerations on the Canadas*, 55. Taylor copied speeches from opposing candidates Rykert and William Hamilton Merritt.

Tory opposition go, connecting them to irresponsible government and tyranny, even labelling Rykert “an enemy of the British constitution.”<sup>125</sup> Additionally, Reformers sought to highlight their support for union and for Sydenham’s governorship more broadly. The Tory press meanwhile characterized Reform candidates such as Robert Baldwin and William Hamilton Merritt as rebels and radicals.<sup>126</sup> Sydenham actively participated in these elections and as Radforth points out, “it didn’t hurt that Sydenham had prepared for the election by resorting to a sweeping gerrymander and intimidation at the polls on a scale that far outstripped even the standards of that era.”<sup>127</sup> Somehow Tory and Reform sources both claimed victory with the *Chronicle and Gazette* stating the majority supported the principles of British constitutional government, and the *Brockville Recorder* celebrating the election of a majority of Reformers.<sup>128</sup> Labels were less significant to Sydenham as he built an “amalgamation party” of moderate Tories and Reformers to implement his desired changes. Through the election, Sydenham’s active involvement secured the union and the future of his administration, as candidates in Upper Canada supported the measure, or at least committed to making the best of the situation, aiming to secure the same stated goals as the Governor.

Intricately intertwined with the implementation of union was the question of responsible government. As Radforth and Careless argued, though responsible government in name was denied, Sydenham’s method of cabinet government helped to secure its principles in Canadian institutions.<sup>129</sup> Upper Canadian Reformers believed that

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<sup>125</sup> *St. Catherines Journal*, March 4<sup>th</sup>, 1841.

<sup>126</sup> *St. Catherines Journal*, December 20<sup>th</sup>, 1840.

<sup>127</sup> Ian Radforth, “Sydenham and Utilitarian Reform,” 74.

<sup>128</sup> *Chronicle and Gazette*, April 8<sup>th</sup>, 1839; *St. Catherines Journal*, April 12<sup>th</sup>, 1839.

<sup>129</sup> Ian Radforth, “Sydenham and Utilitarian Reform,” 72, 73; JMS Careless, *The Union of The Canadas*, 38-50.

until irresponsible government had been removed, the crisis in the Canadas would continue and “the year that witnesses the settlement of this question, and the practical introduction of the constitutional principles of responsible government, will form as interesting epoch in Canada as does the ‘Glorious Revolution’ in the annals of British freedom; and the names Durham and Sydenham will be inscribed upon a monument as imperishable as the one erected to the memories of the Hampdens and the Sidneys – the veneration and gratitude of posterity.”<sup>130</sup> The union of the Canadas and the other administrative reforms advocated by Durham and implemented by Sydenham were viewed as a settlement, which was the same language used to describe the resolution of the Glorious Revolution with the removal of James II and the installation of William and Mary on the British throne. This analogy drawn from English history illustrates the significance of Englishness in settler identity, as well as the importance that settlers attached to union. The Glorious Revolution and its memory held a central place in narratives of British history and political thought, and equating it with the settlement of the Canada crisis illustrates the importance that settlers attached to it, as well as how they sought to situate their experiences within the history of empire. Finally, Durham and Sydenham are linked in the settler imagination and the significance of union and responsibility must be understood in the context of both of their administrations.

Despite much of the constitutional machinery remaining unchanged, as illustrated by J.M.S. Careless, the union debates in Upper Canada altered the principles of not one, but two constitutions.<sup>131</sup> Tories and Reformers alike engaged in challenges to British policy and in doing so advanced the idea that settlers had the capacity and therefore the

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<sup>130</sup> *St. Catherines Journal*, April 1<sup>st</sup>, 1841.

<sup>131</sup> JMS Careless, *Union of the Canadas*, 13.

right to decide their own constitutional future. The approach taken by the British Government to settler input radically differed from the debates of the 1820s, yet many of the arguments employed by the settlers, for and against, remained unchanged. Requiring the colonial legislature to speak on behalf of the settlers affirmed its place as a legitimate representative body for Upper Canadians, and it acknowledged the limits of imperial constitutional theory, which understood British Parliament as representative of the British nation and all Britons. Settlers in Upper Canada still identified as Britons or British Canadians, but the debates of union demonstrate the growing acceptance of the idea of colonial autonomy and self-government within the British imperial structure and while attempting to outflank responsible government, Sydenham's administration created the practical apparatus required for its eventual implementation.

The *Act of Union* of 1840 was a scheme devised by the imperial Parliament for the permanent settlement of the crisis in the Canadas, but it was not, at least to Upper Canadians, an unwanted imperial imposition. It was engaged with critically by settlers and though there was strong opposition, there was also widespread support for the measure with arguments for and against constructed within the same intellectual framework, based on the same guiding principles. Both claimed to be concerned with protecting the British constitution, the British, specifically English character of the colony, and with securing their place as a valuable portion of the British empire. As in the 1820s, the imperial relationship was imagined as mutually beneficial and reciprocal and even amid expressions of loyalty settlers sought increased local autonomy within empire. This was not a movement for colonial independence, however, and the spectre of separation was employed by both Tories and Reformers as the worst possible outcome if

their policy prescriptions were not enacted. Loyalty and the imperial connection, even if declared to be permanent, required liberty, stability, and economic prosperity to be enduring. Upper Canadian settlers entered into the union with some doubts, but contrary to traditional historiographies of Upper Canadian political culture and Confederation, the settler population supported union and appeared to be optimistic about the future of a united Canada. To many, it marked the beginning of a new era of colonial governance, not just for Canada or British North America, but for British colonies more broadly, with a newly imagined imperial constitution that encouraged dual sovereignty and political identities.

## Chapter Five: Conclusion

Different imaginations of union existed in the settler consciousness from the arrival of the Loyalists in 1783. Between 1820 and 1842 union emerged as the policy of the British government and Colonial Office at two distinct times. The main themes of the 1820s debates remained present in the 1830s, and many of the same issues provided the foundation for the Confederation debates in the 1860s. This thesis poses complications for the Confederation literature and argues that the origins of Confederation exist earlier than previously believed, because the same issues were debated using similar reasoning forty years before the debates of the 1860s. The arguments surrounding union over this twenty-year span largely represent continuity. Settlers employed similar arguments throughout the union debates, operating within the framework of Britishness and the British constitution. Each round of debates was caused by a perceived crisis in the Canadas, economic stagnation in the 1820s, and the Rebellion in the 1830s.

Additionally, they were heavily influenced by British reform movements that were in turn influenced and shaped by events throughout the empire. Upper Canada was a part of a transatlantic, multidirectional exchange of ideas and institutions and settlers shaped governance beyond the boundaries of their own colony, and even British North America.

The union debates reveal a settler nationalism in Upper Canada that emphasized the dual identity of settlers as members of the imperial state and of a distinct settler polity. Settler nationalism serves as a vehicle for uniting two rich intellectual traditions of Upper Canadian and Canadian scholarship that emphasized liberty or loyalty as the central animating factor for settler political debate, and incorporates ideas of identity into the discussion of Upper Canadian political culture. This thesis argues that loyalty and



liberty were not competing, but mutually constitutive and reinforcing ideas. They can be seen as combined in expressions of Britishness accompanied by demands for greater autonomy within empire that encouraged the continued development of the settler state. This framework was inherently exclusive, actively excluding women and racialized people, and seeking the dispossession and “civilization” of the Indigenous population of northern North America.

Settler nationalism combined British and Upper Canadian identities that were demonstrated through demands for autonomy within an imperial system. These demands took many forms, but were firmly located within the intellectual framework of settler debate. Commitment to the British Constitution and attachment to the Crown were expressed by both opponents and proponents of union, who were united through commitment to the success of the imperial project in British North America and sought guarantees for the continued enjoyment of British liberties and the British Constitution. Perceived threats to imperial governance included internal trouble-makers, American incursions, and union with Lower Canada, whose institutions and characters were labelled by some, especially settler Tories, as un-British. Debates over Britishness were fuelled by the belief that it was Upper Canada’s specifically English laws that had rendered it a distinct colonial society, despite the massive influx of American settlers and British emigrants as the settler population expanded after the War of 1812. Myths of loyalism featured prominently in the Upper Canadian public sphere, but this did not mean that Upper Canada was an inherently conservative or deferential space. It meant only that settlers, even those opposed to the colonial *status quo*, shared some terms of debates. They understood the inherent logic and language of debate and sought to reshape the

colony by challenging the *status quo* on its own terms. It was largely because of this common ground that contentions about the meaning of the British constitution and Britishness formed the foundation of the union debates.

While the union debates in Upper Canada largely showed continuity, based on similar arguments and reasoning, they allow for the investigation of changing constitutional principles which were shaped by the active and effectual participation of Upper Canadians in transatlantic debates. Debates in the public sphere occurred in print through newspapers and pamphlets, in the colonial Legislature, and in public meetings that passed resolutions on constitutional questions fundamental to the composition of settler society in British North America. These different mediums of the public sphere illustrate an active intellectual space where settlers did not passively accept imperial dictates, but instead participated in a multi-directional exchange that influenced governance not just locally, but throughout the British Empire, especially in other settler societies and Ireland.

This thesis argued that overlapping and sometimes competing identities framed the debates of union, and through these debates, a spectrum of identities that shaped settler political debates are revealed. For British settlers, this ranged from the colonial to the imperial, the imperial one itself a spectrum, that in the colonial setting produced a privileging of Englishness over the other constituent components of Great Britain. Settlers were consistent in drawing from British and especially English history as their reference point, basing their arguments in the lessons of history rather than solely in abstract theoretical notions. This does not indicate a separateness from broader intellectual trends in the Atlantic World, but demonstrates how Upper Canadians shaped

their own experience with broader intellectual trends. The focus on stability and loyalty was not to the detriment of liberty, but a part of the active construction of an intellectual framework in which loyalty and liberty were mutually constitutive elements of Britishness.

One of the main arguments of this thesis, as presented in Chapter Two, was the emergence of a distinct Upper Canadian identity constructed around contested understandings of Britishness that formed the basis for settler nationalism. Focusing on the debates surrounding the 1822 *Bill of Union*, this chapter explored the arguments employed for and against union, and alternative proposals to a legislative union of the Canadas. These included an early articulation by John Beverley Robinson of a scheme that resembled Confederation. Robinson was then just beginning his career in Upper Canadian politics and would play a major role in shaping Upper Canada's development. The framework for debate was legitimized by supporters and opponents of union, as both sides' arguments were based on the same fundamental assumptions, though followed through to different and opposing conclusions. Regardless of the position taken by individual settlers, their arguments were based within a framework of the British Constitution and maintaining Upper Canada's connection to Britain. The debates were further shaped by the relationship with the United States, and a constant fear of an invasion that never came. Even while dismissing American forms of government, settlers drew on ideas of governance and were far less inherently anti-American than accounts of Canadian political culture generally recognized. Arguments were based on a sense of colonial exceptionalism and continued attachment to the imperial state. Settlers' pride in

those events formed the basis of union that included ambitions for continued expansion and increased importance within the British Empire.

Chapter Three considered the impact of the 1837/8 Rebellion on ideas of union in Upper Canada, focusing on the *Durham Report* and settler responses to it, demonstrating that union was not simply a means achieving assimilation of the French population, but an end in and of itself. The chapter examined immediate reactions of settlers to the Rebellion, demonstrating how memory and active forgetting were important parts of identity formation. Immediate reactions shaped the *Durham Report*, which provided a blueprint for effective settler colonialism in British North America.<sup>1</sup> This chapter argued that it was a scheme of consolidation and liberalism that would serve as a base for future visions of a united British North America still connected to the British Crown. It also demonstrated the ongoing privileging of Englishness within Upper Canadians understandings of Britishness. As such, policies of Anglicization were fundamental to settler nationalism. Settlers and imperial politicians believed that it was the British character of these colonies that would allow for territorial expansion and accompanying economic prosperity. The *Durham Report* sparked popular debates in Upper Canada, which were important battlefields, intellectually and physically, for Upper Canadians. They were contested spaces in which Reformers invoked imagery of loyalty and loyalism while being accused of agitation and rebellion by Tories who employed violence and other means of suppression. Opposition to the *Durham Report* was largely based on preserving Upper Canada's distinctive political culture, though some proposal thought

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<sup>1</sup> Jarret Henderson and Orion Keresztesi, "Remember, Resist Redraw #04: The 1837-8 Rebellion", *Active History*, April 28<sup>th</sup>, 2017, <http://activehistory.ca/2017/04/remember-resist-redraw-04-the-1837-1838-rebellion/>

that a union of British North American provinces would ensure the same end. Union faced opposition while it remained an abstract concept, and the Upper Canadian House of Assembly conveyed conditions necessary for its approval if it were pursued by the British government. This chapter argued that loyalty was conditional on experiencing the British Constitution, the meaning of which was itself contested. Loyalty, liberty, the British constitution, and Britishness formed the foundation of settler debate, and they were employed with great flexibility. Settlement of the crisis of the Canadas sought solutions that would permit large degree of practical autonomy while maintaining the connection to Britain.

Chapter Four explored the enactment of union, and it argued that the transatlantic debates resulted in the alteration of not one, but two constitutions. Upper Canadians supported the policy of union not just because it was government policy, but because they believed that it would secure their prosperity and position within the British empire. Though it faced fierce opposition from Compact Tories, there was widespread popular support for the measure, which contradicts traditional interpretations of the implementation of union. Opponents and supporters of union drew on arguments from the same source, British history, and were not just English provincialists or Upper Canadian nationalists, but both. They identified as both British and members of their distinct settler polity. These arguments were still influenced heavily by the Rebellion and Durham report, and many saw the original draft of the 1839 *Bill of Union* as a Durhamite construction. Over the course of the debates in the colonies, however, Charles Poulett Thomson (Sydenham) collected settler feedback and made suggestions that altered the proposed measure. Settlers were able to shape the measure through Thomson, and had a

voice in the process, though they were not responsible for actually introducing or drafting the measure. Englishness continued to be privileged in settler arguments, as they drew on its union processes in the construction of Great Britain, and connected the settlement of the Rebellion crisis with the Glorious Revolution. This chapter argued that union was not solely an imperial imposition, but represented a new era in colonial governance not just in Upper Canada, but throughout the British Empire. Through the debates of union, constitutional principles of the colonial and imperial constitutions were altered, and growing local autonomy within the imperial structure was increasingly recognized as legitimate, though not yet formally recognized.

Throughout the union debates there was remarkable continuity in arguments employed in the settler public sphere. Settlers on both sides stressed themes of loyalty, liberty and Britishness when making their arguments in an active public sphere. These themes were interconnected, dependent on each other and formed the basis of Upper Canadian settler nationalism. Both opponents and supporters of union measures based their arguments in language that revealed a dual identity, and built on ideas of settler self-government within the British Empire. This interpretation of the union debates complicates the Confederation literature by demonstrating early ideas of a new nationality in British North America, and illustrating continuity in the issues facing settlers across the 1820s and 1830s. Issues of consolidation and settler nationalism would continue to animate debate among settlers, as they continuously negotiated their imperial and colonial identities. This thesis illustrates the active and contested nature of the Upper Canadian public sphere, as enfranchised settlers effectually participated in transatlantic debates that shaped imperial governance. These settlers actively negotiated their

identities and in doing so constructed a distinctly Upper Canadian political culture. This political culture should not be characterized as solely the product of loyalism or liberalism, but of both operating within a broader system of settler political thought that incorporates settlers' emerging identities.

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